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MISCELLANEOUS

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WORKS

OF

WILLIAM PRYNNE, Esquire,

UTTER-BARRESTER, of Lincolnes Inne.

VOL.XX.

PSALME 120. v. 5, 6.

My Soule hath long dwelt with them, that are enemies unto peace: I labour for peace; but when I speake unto them thereof, they make them ready to Battle.

London: Printed for the Author, and are to be fold by Edward
Thomas, dwelling in Green Arbour.

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MISCELLA VEOU WOLLS WIDEN WEEKLY Harris II and H PENEME

A Full necessary, seasonable, enlarged of N D I C A T I O N

of the just, antient, hereditary Right of the Lords, Peers, and Barons of this Realm to fit, were judge in all the PARLIAMENTS of ENGLAND.

Wherein their Right of Selfim; and Sole Paper of Judicature misbolit the Commons Housein Criminal Civil, Ecclesiastical causes es well of Commons as PEERS, yes in cases of Elections, Breach of Privilege, mildemeanors of the Commons themselves, is irrefragably endeated by folid reasons, punchual Authorities, memorable Presidents out of Histories and Records in all ages, most of them not extent in any Writers of our Tarliaments: Whose Errors are here rectified; the Seditious Auti-Parliaments: Whose Errors are here rectified; the Lords House, and Right of judging Commoners fully refuted; and larger Discoveries made of the Proceedings, Judgements of the Lords in Parliament in Criminal, Civil causes, Elections, Breaches of Privilege: and of their Galanty in gaining, maintaining, preserving, the Great Charters, Laws, Liberties Properties, of the Nation, and oppugning all Regal Papal Usurpaious, Exaltions, Oppus Sints, Magal Ander, Taxes, required or imposed, and of the Commons furth summons in, and just Power in Parliaments, than in any former Publications whatsever.

By William Prynne Elquire, a Bencher, late of Lincoines Inne.

Prov. 22, 28. Remove not the antient Land-mark, which thy Pathers have fet.

Lindon, Printed for Edward Towns at the Adam and Eve in Little Britain, 1625.

1848:01



To all the truly Honourable, Heroick Lords and Peers of the Realm of England. who are real Patriots of Religion, their Countries Fundamental Liberties, Properties, Great Charters, Laws, against all arbitrary Tyranny, Encroachments, illegal, unnecessary Taxes and Oppreflions.

bt Honourable,



Hough true Nobility (alwayes founded in (a) versue and real piny) needs no o- (a) Omnes sher cutelar Deity, or Apalogie, but it pari force naffelf, amongst shole (b) ingenious Spirits, cimur, fold who are able to discern or estimate its virture diftinworth; yet the iniquity of our degene tins Felix

rated Age, and the fronzie of the intoxicated igneram offan. p. 123. vulgar is such, that it now requires the affiftance of the Nobilitàs fola ablest Advocates to plead its cause, and vindicate the ned est ac unica Rights, Privileges of the House of Peers, against the (c) Saire. 8. licentians Quills, Tongues, of lawleffe fordid Seltarier, and (b) Omnes Mechanick Levellers; who having got the Sword and boni femper reines into their hands, plant all their batteries and force Nabilitati quia utile eft reipub. Nobiles Homines effe dignor Majoribus fuis, & quia valer spud nos elarorum Hominum & bene de reipub, meritorum memoria, et iam mostuatum. Cicero Orat, pro P. Sext, (a) Lilburg, Overton, and others.

The Epistle Dedicatory.

against them; crying out like those Babylonian Levellers
(d) Psal. 137. of old against the House of Lords; (d) Rase is, Rase is, even to the foundation thereof, and lay it for ever level with
the very dust; beholding all true Honor, worth; and Nobleness shining forth in your Honors heroick Spirits, with a
malignant aspect, because they despair of ever enjoying the
least spark therof in themselves, and prosecuting you with
a deadly batted, because better, greater than ever they have

† Those who hopes to be, unless they can through † Treachery and viousurp supreme lesse make themselves the onely Grandees, by debasing
Power by
these illegal your highest Dignity, to the lowest Peasantry, and making

means, and the meanest Commoners your Compeers.

Come not in by
the Door; but climb up some other way into the sheepfold: are resolved by Christ himself to be THIEVES & ROBBERS; who come but for to STEAL, KILL, and
DESTROY the SHEEP; and no lawfull Shepherds, Powers, Magistrates, John
10. 1. 10. These thiss true sheep will not solven, but sice siom, for they know not
their voyce. Ver. 5.

This dangerous sedicious Design hath ingaged me (the unablett of many) out of my great affection to Royalty and real Nobility, and a deep sence of the present sad tottering condition of our Kingdom, Parliament (the very pillars and foundations whereof are now not only shaken, but almost quite subverted) voluntarily, without any Fee at all, to become your Honors Advocate, to plead your Cause, and vindicate your undoubted hereditary right of sitting, voting, sudging in our Parliaments; of which they strenuously endeavour to plunder both your Lordships and your post. Tricies; and to publish these substance Collections to the world, (now enlarged with many pertinent Additions) to still the "madness of the seduced vulgar, whom Ignora-

* Pfal, 65, 7. to ftill the "madnefs of the seduced vulgar, whom Ignoramus Lilburn, Overton, Walmin, and their Consederates have laboured to mutinie against your Parliamentary Ju-

Potter treadeth the clay, in their illiterate sedicious Pamphlets; whose Arguments, Pretences, Presidents, Objections, Allegations I have here resuted by Scripture, Histories,
Antiquities, Anti-

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ry th Antiquities, and Parliament-Rolls; the ignorance whereof, joyned with their malice, is the principal occasion of their error in this kird.

And truly were all our Parliament-Rolls, Pleas, Ionr. * As they ark nals, faithfully transcribed, and published in print to the now in part, eyes of the world, as most of our Statutes are, by authority In an Exact 7 of both Houses of Parliament (a work as worthy their un of the Records dertaking, and as beneficial for the publike, as any I can of the Tower recommend anto their care) it would not only preserve of London, them from imbezelling, and the hazards of fire and warr, 1657. Fublito which they are now subject, but likewise eternally fi- fied by me. lence, refute the Sectaries, Levellers ignorant false Allegations against your Honors Parliamentary Jurisdiction and Judicature; resolve, clear all or most doubts that can arise concerning the power, jurisdiction, privileges of both, or either Houses, keep both of them within their due bounds, (the exceeding whereof is dangerous, grievous to the people, except in cales of absolute, real, present, urgent, not presended necessity, for the saving of a Kingdom, whiles that necessity continues, and no longer;) chalk out the antient regular way of proceeding in all kinds of Parliamentary affairs whatfoever, whether of warr, or peace, Trade or Government, Privileges or Taxes, and in all civil or criminal causes, and all matters whatsoever concerning King or Subject, Natives or Foreiners; overrule, reconcile most of the present differences between the King and Parliament, House and House, Members and Members; clear many doubts, rectifie some gross mistakes in our printed Statutes, Law-Books, and ordinary Historians; add much light, luftre, ornament to our English Annals, the Common & Statute Laws; and make all Lawyers, all Members of both Houses far more able than now they are, to manage and carry on all businesses in Parliament, when they shall upon every occasion almost have former presidents ready at hand to direct them; there being now very few Atembers, in either Houle, Lords, Lamyers, or others, well read, or versed in antient Parliament Rolls, Pleas, lournals, or Histories relating to them, the ignorance

The Epiftle Dedicatory.

rance whereof is a great Remora to their proceedings, yea of times, a cause of dangerous incroachments of new Inrifdictions over the Subjects persons, estates, not usual in
former Parliaments; of some great mistakes and deviations from the antient methodical Rules and Tracts of parliament (now almost quite forgotten, and laid aside by new
unexperienced, ignorant Parliament Members, who think
they may do what they please) to the publike prejudice,
injury of posterity, and subversion of our Fundamental
Laws, Rights, Liberties, in the highest degree, by new ereceled arbitrary Committees, exercising an absolute tyranmeal
power over the Persons, Liberties, Estates, Freeholds both of

Lords themselves, and all English Freemen.

Your Lordships helping hand to the speedy surthering of such a necessary publike work, and your industrious, magnanimous, unanimous imitation of the memorable heroick presidents of your Noble progenitors, in gaining, regaining, enlarging, confirming, perpetuating to posterity the successive Grand Charters of our Liberties, when ever violated; in oppugning all arbitrary tyrannical Proceedings, Taxes, Oppressions, Encroachments, ill Coursello.s, and bad Instruments both of Kings and Popes themselves; in insticting exemplary punishments upon all Traytors, Enemies to the publike, both in our Parliaments, and the Field

* Page 56. to too, when there was occasion, the principal whereof, I have * here presented to your view, in aChronical method,

140. 188. to have here prefented to your view, in a Chronical method, 194. 210. 242. will be a great accession to your Honour, the best vindito 258. 263. cation of your antient undoubted Parliamentary Jurisdiction 267.

to 258. 263. cation of your antient undoubted Parliamentary Jurisdiction, Right, Power, Judicature, against all Opposites; till the accomplishment whereof, I shall humbly recommend this enlarged Plea in your Honors defence, to your Noble Patronage; who can pitch upon no better, nor readier means to support your declining Honor and Authority, or to reindear your selves in the Peoples affections, than in these distracted, dangerous, stormy times, to ingage all your interest, power, activity, speedily to settle, secure Gods Glory, Truth, Worship, the publike Laws, Peace, Liberty, Safety of the Kingdom, against all open Opposers, and secret Undermi-

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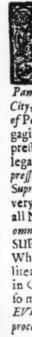
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ners of them; to unburthen the people of their long-continued, heavy Taxes, the Souldiers infolencies, free-quarters; to redreis all preffing grievances, all oppreffing arbitrary Committees, proceedings, contrary to the rules of Law and Iuflice; to right all grieved Petitioners (especially such who have waited at least seven years space at your doors for reparations) to relieve poor starved Ireland; raile up the almost lost honor, power, freedom, reputation of Parliaments, by acting honourably, heroically like your felves, without any fear, favour, hatred or felf ends, by confining your selves, with the Commons House, to the antient bounds, rules of Parliamentary Jurisdiction, proceedings, and by endeavouring to excel all others as farr in Instice, Goodness and publike resolutions, as you do in Greatness and Authorit;. Which that you may effectually perform, as it is the principal scope of this Plea for your Lordships; (which whether you stand, fall, or by way of Remitter, recover your antient rights again, after a violent discontinuance of them for a sealon, will remain as a lasting Monument to all Posterity of your undubinable just Right to sit and judge in all English Parliaments) So it shall be the constant prayer of,

From my Study in Lincolns Inne, 7. Junit 1647. Your Lord(hips devoted Servant,

WILLIAM PRYNNE.



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To the Ingenuous READER.

His Plea for the LOR, DS and Honfe of PEER S, was first suddenly compiled and published by me in the year 1647, when (a) Lilburn, Overton , with their Iefuiti- (a) His Proeal and Anabaptistical levelling Confede testation arates endeavoured by fundry seditions gainst the

Pamphlets, libels, Petitions, then printed, dispersed in the Lords, Regal City, Army, Country, to extirpate the Lords and Honge covered, with of Peers, together with the King and Monarchy, by en-others here gaging the vulgar Rabble, Souldiers, and Commons to sup- quoted, p. presse, pull down, or cast off their superiour, just, antient, 2, 3, 4. legal authority over them; not only against the (b) ex- (b) Prov. 24. prefe Laws of God and (6) the Realm, their own Oaths, of 21. Rom. 13. Supremacy, Allegiance, Protestation, Covenant,; but the 1,2,3. Tit.3.1. very Law of Nature it felt, univerfally received amongst 1 Tim. 2, 13 all Nations what soever: (d) Hac enim lex Natura apud 2. 1 Per. 2. 13. omnes Gentes recepta est , quam nullum tempus delebit, UT (c) I Eliz. c, SUPERIORES INFERIORIBUS IMPERENT: 1.3.8 Eliz. Which Law these unnatural Bedlams would now quite ob- c. I. 1 Jac. 1' literate, endeavouring to fet up that Atany & dilorder 3 lac. c. 2, 42 in Government, which Solomon, and God himfelf by him 1. fo much complain of, Ecclef. 10. 5, 6, 7. There is AN (d) Dianylius EVIL. I have feen under the Sun, as AN ERROR that Halicarnas. proceedeth from the Ruler, Folly for persons of mean for Antiqu. Rom.

tune,

tune, parts, birch) is (et in high dignity , and the rich fet in low place : I have feen Servants upon Horfes ; and 102fns ces walking as Serbants upon the earth: Which dilorder he thus centures , Prov. 19. 10. Delight, is not feemle for a fool, much leffe for a Serbant to have ride over Brinces: The fad effects whereof he thus relates, Prov. 30. 21, 22. For three things the Carth is Difquieted, and for a fourth, which it cannot bear, (the hirt and chief whereof is this) For a perbant when he reigneth. To which David subjoyns another ill consequence; Pial. 12. 8. The ungodly walk on every side, when the vilest of the Sons of men are exalted: which the Chalde paraphrale thus glotleth; In circuitu improbi ambulant tanguam sanguisu-

31 H.S. c. r. ga, qui sugunt sanguinem filiorum hominum; the pealantry; 39 H. 6. c. 1. when exalted above the antient Nobility and Gentry, pium l. r p. 67. being usually both intollerably proud. infolent, cruel, blo. dy, (f) Nubri- according to the old observation of (e) Claudian, and genfis l. 4. c. others;

(g) See Walfingham, Holinshed , Speed, Srowes Survey of London, Truffel, Graf-

Asperius humili nihil est cum surgit in altum, Cuntta ferit, dum cuntta timet; defavit in omnes Ut se posse putent, nec bellua terrior ulla Quam fervirabies in libera colla furencis; Agnoscit gemitus et pana parcere nescit.

ton. This was experimentally verified, not only in (f Wil. (h) Sleidens Comment, I. Langhamp heretofore, and other particular perions ad-7. 11. Munvanced from low degree to places of greatest honour; but fieri Colmogr. in the popular infurrections of g) John Cade, Jack Stram, 1. 3. C. 142. Wat Tyler, and others, who intended to murther the King, David Chytræus, Chron. destroy the Nobles, Judges, Prelates, Lawyers, and chief Gent. Saxonix,1.12, they could meet with, than to seife upon their lands, estates, and 13, 14. make themselves Kings. Lords in their steads, and share the (i) See the Animadversi- Kingdom, Government between them and by the (b) Anabaptists proceedings of like Nature at Munster and other ou on the Weish Replaces in Germany; whom the prefent (i) Levellers of monft ance, this feet would doubtleffe imitate, could they get but and answer to Killing no sufficient power into their hands. Murder.

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My ablence in the Country whiles this Plea was printing, cauled many material mistakes of words, and one groffe mutilated transposition in Cheddars cale, in its first Edition, p. 48, 52. which I could not correct, most of the Books being dispersed before I could get an Errata printed; and the small time I had to compile ic,necessicated me to omit many material Records, Presidents Hiltories pertinent to this Argument: Whereupon co right my felf, with the Lords whose cause I pleaded. and the Readers, I foon after resolved to publish a corrected much-inlarged Impression thereof; but other publike Imployments and publications retarding it, and the whole House of Lords love few Months after being forcibly suppreffed, my felf, with fundry other Members of the Coma mons House secured, secluded, and after that dispersed and tent close prisoners by Mr. Bradshaws illegal Warrants unto leveral remote Castles, without any hearing or cause exprefled, or recompence for the Injuries, damages thereby fultained; this much augmented Plea hath lyen dormant ever fince, and had never been awaked to walk abroad in publike, had not the late loud unexpected Votes at West m. of, a + NEW KING AND HOUSE OF LORDS under . As at fire the Name, Notion of ANOTHER HOUSE, passed by propounded ? some who had lately (c) suppressed, decryed, engaged against voted, and chem both as ufeleffe, dangerous, oppreffive, burthenfom, ty- urged at feverannical, Go. revived, and railed it out of the Grave of ral conferen-Oblivien.

The Subject matters principally debated and vindica- clarations and ted in it are only two. First, That all the Dukes, Marquef. Papers of Feb. les, Earls, Viscounts, Barons, Lords of England have an and March 17 undoubted antient, just Right, Privilege to fit, vote in all Parliaments of England, without any election by or Commission from the people, with the true grounds thereof. 2ly. That the judicial power, Judicature, and Judgements in Parliament, belong wholly and foly to the King and House of Lords, not to the Commons House, and that in all criminal, civil, or ecclefiaffical causes whatfoever proper for Parliaments to decide, both in the Cafes

S:e their De-

of Commoners and Clergy men, as well as Peers; who are onely triable both in and out of Parliaments by their

Peers, here plentifully evinced.

In debating these two points, I have briefly proved the Antiquity of our Lords and Nobles fitting, voting in all Parliamentary Great Councils, both under our British, Saxon, Danish, Norman, and English Kings, before any Knights, Citizens or Burgestes were admitted into our Councils, or Parliaments; which having more particularly demonstrated by undeniable presidents, in my Historical Collection of all the antient Great Councils and Parliaments of England; in my Antiquity triumphing over Novelty, p. 9, 10.55. to 85. and in my 1, 2, & 3. parts, of an Historical, Senfonable Vindication and Collection of the fundamental Rights, Privileges, Laws, &c. of all English Freemen, printed 1655.1656. & 1657. (wherein all the Great Councils, and Parliamentary assemblies from Brute to William the Conquerer, are Chronologically collected and epicomized: I shall referr the Reader thereunto for full satisfaction of the Antiquity of our Parliamentary Councils, and the Lords constant fitting, voting, judging in them.

2ly, Becaule(1) many of our late Historians, Antiquaries, (1) Polydor Virgil, Speed, Lawyers, and others, derive our Parliament as now con-Holinshed, in stituted, and the calling of Knights, Citizens, and Burgesses Anno 1216. to them, from the Parliamentary Council held at Salisbury See here, p. in the 16.y ear of King Henry the 1. or at least from King 165. Iudge Dodderidge, Henry the 2. his reign, (which the forged Imposture filed Mr. Agar, Mr. Modus tenendi Parliamentum, and (m) Sir Edward Cook, fe-Cambden, & duced by it, would advance as high as Edward the Con-Joseph Holland, in their feffor, as if there had been Knights, Citizens and Burgef-Treatifes of fes usually summoned to all Parliaments in his reign and the Antiquity ever fince;) I have herein given you an account our of our of the Parlia antientest and best Historians, of all the Parliaments and ments of Eng. Proceedings in them, both under King Henry the 1. & 2. 20, 40. 85,87. and most others under their immediate Successors, infal-Sir Walter

Raleigh his Prerogative of the Parliaments of England, p. 2, 3. The Freehold-

ers Grand Inquest, p. 13, 14. (m) 4 Institutes, p. 12.

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libly proving there were no Knights, Citizens and Burgelles in the Parliaments held under either of them, and that their first summons to Parliaments (for ought aprears) was but in 49 H. 3. not before, fince which they have been usually summoned, but yet in a various manner.

3ly. I have evidenced by many memorable Histories, Prefidents, Records in all ages; (the most whereof were never mentioned by any who have formerly written of Parliaments) that the Judicature in our Parliaments refides folely in the King and House Lords, not only in all Criminal cases of Lords, Peers, Commons, and in all Civil and eccleuzitical bunneffes, Appeals, and Witts of Error there descided; but likewise in all cases of Elections, 'See Walbreach, or allowance of privilege of Parliament, and mif-fingham, 11th, demeanous relating to the House of Commons than demeanours relating to the Houle of Commons them 1 H. 4. P.402. feives, their Speakers, Members, and menial Servants. To DOMINE in which I shall only add, That the late King in his printed Parents Par-(n) Answer to the 19. Propositions of both Houses, June liamento Re-1642. 'hus declares: That the LORDS being trusted with Sul luDia Judicatory power, are an excellent Screen and Bank be- CANT & tween the Prince and People, to assist each against any in: DECERcroachments of the other; and by full judgements to NUNT, &c. preferbe that Law, which ought to be the Rule between DOMINI; every one of the thie.

TEMPORA. LES REGIS

ASSENSU IUDICANT & DECERNUNT, &c. (n) Exact Collection, p. 321.

4ly, I have herein for the benefit of all Students, Professors of the Law, and others, (who take all Sir Edward Cooks Opinions, Records, for undoubted Oracles, without examination, and swallow down all his mittakes) discovered many of his gross Errors, overlights, misrecitals and pervertings of Records, in matters relating to our Parliaments; evidenced his much magnified Modus tenends Parliamentum, to be a meer late Imposture, full of mistakes, concerning the Antiquity and Judicature of the Commons . Here, p. 147. Honge; and (1) refused Sir Edward Cooks miltaken Law, to 161.

(2) I Inflit, & 23 in other points, to in this : (2) I nat the Kings general t. 9 b. 10 b. writ of summons to any Knight or Esquire to the House of See 4 Inflir. Lords, (by the name of Knight or Esquire, without any spep.6.7. 44, 45, cial clause of creating him a Baron or Lord in the Writ.) doth neither ennoble himself, nor his heirs, nor make them Lords and Barons, though they fit in the Lords House (as he affects, it doth;) unless they held by Barony of the King before, and were Barons by their Tenure : the general writs of fummons Hilling them only Knights and Equires, as before, not Lords or Barons, and having no clause in them, that will amount to the creation of a Lord, much leis of a Baron, which (3) Seldens Titles of Ho- Title, or word Baron is not mentioned in the Writ; nor doth it affix their Lordship or Barony to any particunor, p.745, 746,747.748, lar place, as all (3) Writs and Patents that create men Lords or Barons use to do. For the further clearing of this point, you may observe, that the writs of summons in the Clause Rolls, do sometimes stile the persons summoned, Barons : thus all or most of the (4) writs of summons from 25 E. 3. (4) See my 1. Table to an to 1 E. 4. are directed, Willielmo Baront De Grapftocke Exact abridg. Chivaler: Radulpho, Johanni, & Radulpho Baroni de the writs of Graystocke. Sometimes the writs stile them Lords; as (5) Johanni Talbot Domino de Furnival, in 4 H. 5, &c. fummons in that abridge- In Ann: 25, 27, 28, 29, 31, 33, 38 H. 6. and 2 E. 4. (5) An Exact the writes are, Henrico Peircy DOMINO de Poymiger, abridgement, DOMINO de Poynings, DOMINO de FERRARIIS de Groby, Thoma DOMINO de Roos, Richardo Woodvil P. 549,558, 633,636,637, Militi, DOMINO de Rivers; Roberto Hungerford Mil: 639,640,640.DOMINO de Mollings, Willielmo Beuchamp, DOMINO 645,648,649, de Sto Amando, Jacobo de Fynes, DOMINO de Say et 655,660, 661, Seal; Edwards Gray Mil. DOMINO de Groby, H. DO-MINO de Poynings, Johanni Sturton Mil. DOMINO de Sturton, Johanni DOMINO de Clinton, Edoardo Nevil DOMINO de Burgaveny, Willielmo Bourchier Mil. DO -. MINO de Fitzwarren, Henrico Bromflet DOMINO de VESSEY, Thoma Grey DOMINO de Richmond, Tho. Percie Mil. DOMINO de Egremont, Ricardo Wells DO-MINO de Willoughby Mil: Richardo Fines DOMINO Though in most antient and later writs, the Word

word only u the wi Bromf lawful Itile t (es, as Lords which neithe cannot unless by Ten very y Grand Baron, NER, By 48 Everde arrivy and co worns Enquel Judge . fil aver ron du part of held fo. The re Belknay not th Barony Prefera Lition, 1 34 H. Cooks 4 what S

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word Dominus is omitted; and the name of the Barony only used: Somtimes there is a special clause of Creation in the writ it felf, as in Claule 27 H.6.m. 26. dorfo; " Henrico Bromfleet Mil: creating him & the heirs males of his body An Exact as lawfully begotten Barons of Veffey. Thefe writs which thus bridgement, p. Hile the Barons, Lords, & create them such by special class. 637. Seldens les, as patents doe, will make those Knights and Efquires, nor, p. 745. Lords or Barons, who were none before: but a General writ which terms them only Knights or Esquires; and gives them neither the Title of Lords or Barons, nor creates them such, cannot make themselves or their posterity Lords or Barons, unless they held by Barony, and then they are Barons only by Tenure, not Writ. This is clear, as I conceive, by the very year-books of 22 E. 3. f. 18. a. where a Juror in the Grand Assise was challenged, because he was a Baner, or Baron, and this Challenge not allowed; car fil foit a li A-NER, & netient pas per BARONI, il seruera in l'affise; By 48 E. 3. f. 30 b. Brook Challenge 37. Where Sir Ralph Everden Knight brought a writ out of Chancery, and also a rrivy Seal to the Jultices, rehearing that he was a Baron, and commanding them to (6) discharge him from being (6) Firz. N. fworn in Affifes, because Barons ought not to be sworn in an Brev. t. 165. Enquelt or recognifance against their wills. Whereupon e. Judge Belknap examined him, Sil tient per Borong ? & fil avera tout ceo temps Tenus a Parlement come Bas con built bener? who answered, I nat be beld by a certain part of a Barony, and that he and his Ancestors had alwayes held fo: After which, upon good advice he was difcha ged. The renure by Barony, and comming to Parliaments in Belknaps opinion being that which makes men Barons, not the general writ of Summons, unless they held by Barony: which Opinion is fortified by An. 3 H. 3. Fitzh. Prescription, 56. M. 4 H. 3. Dower 180. M. 23 H.3. Par . tition, 18. Tr. 18. 2 E. 2. Fitz. Affife 383. 39 E. 3. 35. 6. 34 H. 6. 50. Trial 18. 35 H. 6. 40. 4. Sir Edward Cooks 4 Inftit. p. 47. Gilbert de Umphrevils cale; with what Sir Edward him elf hash observed in his 4 Instit. p.5. which I thought fit to add (for further clearing of this moor-point) to what I have herein collected couching this Subject.

5ly, I have here, p.57.to 132.243.to 258. 264, to 267.

192. to 206, &c. produced many memorable presidents and Records of our Lords and Barons magnanimous, firenuous, unanimous oppositions of all Regal and Papal U. furpations, Oppressions, Exactions, Encroachments on the peoples Liberties, or properties in former ages in our Parliaments; of their care, vigilancy, industry, courage to gain, retain, confirm, and perpetuate to posterity those Grand Charters of our Liberties, and Fundamental Laws, privileges, franchifes, which we formerly enjoyed by their valour, and so long contested for both in Parliaments and the field, against the late King, with the prodigal expence of much Christian bloud, and many Millions of Treasure; Which yet now at last are almost totally lost, betrayed, deserted, disowned both by the Nobility, Gentry, Lawyers, Clergy and Commonalty of the Nation, through base, unworthy, unchristian, unEnglish, ignoble fear and cowar-† Num. 16,22, dife, to their eternal infamy and reproach, unless the † God of the spirits of all flesh, shall infuse new life, and English Spirits into their spiritles, stupid, timorous, faint-hearted, flavish, and almost despairing Sonis, by the serious contemplation of those heroick presidents of their ancestors here represented to their view, especially when publikely assembled in Parliament, and pressed to burden the people with new Aydes and Taxes, though very rare, small and inconfiderable, in respect of the manifold heavy incessant Taxes, Excises, Impolts, which we have for many years last past sustained, to fight our selves into greater slavery, beggary, co. fusion every year than other, and hasten the total and final desolation of Church State, Religion, Laws, Liberties, Parliaments, kingdom, if God of his infinite goodness prevent it not, by induing the Lords of the Great Council of Parliament, and all the Nobility, Clergy, Lawyers, Gentry, Commonalty, and Soldiery of the Land with Grace, wildom, understanding, magnanimity, unanimity and *Luke 19.42. activity to know and puriue * in this their day, the things which belong to their peace, liberty, eafe and fettlement;

which shall be my daily Letany for them.

C. 27. 16.

61y, 1 proceed Spencers the 2. a more f Histori red you the Kir 4. letti disprov as mee and mu wicked, and me and occ ings, A and att adhere lished. falleir Fudica exorbi

> 7ly paffage langua both t cause and w fellion publif tranfla or Lan canno lains, learne in it,

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by, I have here published to your view, the Articles, proceedings, judgements in Parliament against the two Spencers, Roger Mortimer Earl of March, King Eaward the 2. and Richard the 2. out of the Records themselves. more fully, truly, than they are related by our * vulgar * Wallingh. 'Historians, to rectify some miltakes in them, and present Truffel, Hall, ted you with the memorable petition of the Commons, and linked, Graf. the Kings answer thereunto in the Parliament of 1 Edw. ton, Speed, 4. ferting forth his pedegree, Title to the Crown at large, Baker, Stow, disproving the Titles of Henry the 4, 5, 6. branding them and others. as meer Uturpers; condemning Henry the 4. his deposition and murder of King Richard the 2. as a most tyrannical, wicked, bloudy, unchristian act, Murder, execrable both to God and men, which drew down exemplary Judgements on the land, and occasioned bloudy intestine wars; repealing all proceedings, Acts, Ordinances for the establishment of this Usurper: and attainting K. Henry the 6. his Queen, Son, and all their adherents of High Treason: A record never formerly published. And I have cleared these presidents from those false inferences, to prove, the Commons joynt interest in the Indicature of Parliament with the Lords, and justifie those exorbitant proceedings, which some have erroniously deduced from them.

7ly, In this plea, I have for the most part recited the passages of our antient Parliaments and Records, in the same language our old Historians and Records relate them, both to avoid all suspitions of any mistranslation, and because their own language more elegantly expresseth them; and will give greater fatisfaction to the learned of all profestions (for whose benefit and instruction I have chiefly published them, not for the illiterate vulgars) than any translation what soever. If there be any lack-Latin Lords or Lawyers of so ignoble education or extraction, that they cannot understand them, I presume they have some Chaplains, Secretaries, Steward, or Clerk belonging to them, or learnedfriends near them, who can interpret those passages in it, which will be a shame for any Nobleman or Lawyer so profess in publike he understands nor; for if Lawyers

Fabian, Ho-

understand not Lain or French Records when printed: how will they be able to read or make ule of them in the Tower, or Treasuries, the principal Magazines both of that kind of learning and Law, which concerns either our Parliamentary or State-affairs; which will be wholly loft in few years more, if all Students of the Law (as many now do) turn English Lawyers only, and cast off the use both of Latine and Law-French in their publike Moores; the readiett method to make them real Ignoramusses, and as void of Law, as of these Languages wherein the Records are re-

It is our Saviours observation, John 3. 19, 20. That

light is come into the world, and men love darkness more than

giltred,

* Gal. 3. 1. c. 4. 15.

light, because their deeds are evil: For every one that doth evil hateth the light, neither cometh to the light, left his deeds Thould be discovered or repreved. And Si. Paul complains of the footish Galathians, whom some had bewitched that they should not obey the truth; that though at first they so respected him, that if possible, they would have plucked out their own eyes and given them to him; yet foon after, reputed him to be their enemy, because he told them the truth. I doubt the old and new Lights, and unknown Pa liamentary truths, proceedings discovered to the ignorant blind world in this Plea, though amiable, delightfull in themselves, and gratefull to all true Philopaters, Philologers, and learred Nobles, Statesmen, Lawyers, Scholars, (in this degenerous age, wherein all forts of Learning, and inlight in Records or Parliamentary Antiquities are very much decaved;) will yet be very displeasing to some forts of ignorant, heady, extravagant persons, who love darkness more than light, because their deeds are wil; but more especially to the Anabaptistical Levellers, Lilburnians, innovating + Hab. I, 6,9, Publicans and Republicans; much like the + Chaldeans of old, a bitter, and hasty Nation, lately marching through the bredth of the Land to possess the dwelling places that are not theirs: they are terrible and dreadfull; their judgement and dignity proceedeth of themselves; they are all for violence; they foof at KINGS, AND PRINCES ARE A SCORN

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MINTO THEM, as appears by their late Fotes, Declarazions, Engagements, not only against Kings and Kingship, but the whole House of Lords , and to illiterate felf-conceited Lawvers, and ignorant Members of the Commons House, who deem that House, and its Committees, if not every Member of it, the only Supream Judges and Judicatureo the Realm, paramount our Kings, Lords, Laws, Liberries, Great Charters, and all other Courts of Justice , havine an absolute, arbitrary, unlimited power, to act, vote and determine what they please, without appeal or confult, which this Plea irrefragably disproves as a most gross and dangerous millake; for which they will frown upon it, if not hate and profecure me as their Enemy. the Sun must not cease from shining because weak and fore Eves will be offended with its folendor, nor feafonable truths of most publike concernment be concealed, smothered in time of greatest need, because ignorant, erronious † Ezech, 2, 3. . fortish, hair braind, Levellers or Innovators will be -dif to 9. Nihil est vepleased with, and storm against them, they being always iteris luce Sweet and lovely in them felves, yea precious to the bett dulcius, Ciceof men, and will prove victorious in conclusion, though ro Ac. Quart. clouded, suppressed, maligned for the pre ent; yea he 1. 3. who by the publication of fuch truths, rebukes wife, ingenuous mens extravagant actions and opinions for the pre- † Prov. 28.23; fent , shall afterwards find more favour with them (when they come to know themselves and thei mistakes, by meditating on the truths revealed to them) her he that flattereth them with his lips, in their exorbitant actions, or erronious opinions.

I shall therefore recommend this Plea for the Lords, and all the truths therein discovered, asserted, to the omnipotent Protestion, and effectual blessing both of c) THE (c) Deut. 10. LORD OF LORDS, and (d) GOD OF TRUTH, whose 3. 1 Tim. 6. Eyes are upon the TRUTH, in this sad age of Errors, Fal. 15. Rev. 17. shoods, Lies, Fraud, and desperate Hypocrisie, wherein truth 14. C. 19. 8. is fallen in the Streets, and he that dares boldly affert it, (d) Deut. 3t. 5s reputed mad, and maketh himself a prey: And shall leave 4. Plal. 3t. 5. it as a lesting monument to posterity of my Cordial affer 15. 5. 3.

gi m.

aion to the antient Parliamentary proceedings, Lords, Peers, Laws, Liberties, Properties, Great Charters of the English Nation, and my sincere endeavours to plead their cause in the worst of times, against all their Antagonists and professed Enemies, though never so numerous and

formidable, albeit to my own private prejudice.

Whatever the Reader shall find wanting in this Plea relating to the Constitution, Summons, Proceedings of our antient, English Parliaments in general, or to the power, Judicature, Rights, privileges, transactions of our Kings, Lords, or House of Com.in Parlin particular, you may read at leisure in my Preface and Tables to An Exact Abridgement of the Records in the Tower of London, from the reign of King Edward the 2. to Richard the 3. and in the Abridgement it self, collected by that famous Antiquarie, Sir Robert Cotton, lately published; which will better in-Aruct the Readers in all Parliamentary affairs, than all the flight unsatisfactory Treatiles of our Parliaments, hitherto published, except this Plea; which I humbly submit to the friendly Imbrace, and impartial Censure of every Judicious Reader, especially of my own profession, for whom it is most proper; whose general ignorance and mistakes in Parliament Antiquities, proceedings, and matters of the Crown, hath brought some disparagement upon the function, and led others into dangerous publike Errors; which that this Plea may wife off, and reclifie hereafter for the common benefit, ease, settlement, re-establishment of our late dissipated Parliaments, and consused, distracted Nations, shall be the Vote and day ly prayer of

Lincolns-Inne 6 Decemb. 1657.

Thy unfeigned Friend, and his Countries publike unmercenary Servant,

WILLIAM PRYNNE,



Parlia chi & red Pe and pu

A Plea for the

LORDS,

AND

HOUSE of PEERS.

Ashort, yet full and necessary Vindication of the Judiciary and Legislative

Power of the House of Peers, and the Hereditary just Right of the Lords and Barons of this Realm, to sit, vote, judge in the high Court of Parliament.



He treasonable destructive defign of divers dangerous Anabaptists, Levellers, Agitators in the Army, City, Countrey, and of Lilburn, Overton, (their Champions, Ring-leaders in this Seditious Plos) to dethrone the King, unlord the Lords, newmodel the House of Commons, extirpate Monarchy, suppress the House of Peers, and subvert

Parliaments, (the only obstacles to their pretended Polarchy & Anarchy) are now so legible in their many late printed Petitions, Libels, Pamphlets, so visible in their allings, and publike proceedings, that it rather requires our dili-

(a) A Remon-gence and expedition to prevent, than ke francy to doubt or thrance of many dispute them, they politively protesting against, year denythousand citi-ing both King and Monarchy, in their (a) late printed zens to their own House of Pamphlets, Remonstrances, with the Power, Jud cature of commons, p.6. the House of Peers, and their undoubted just Hereditary The just mans right to vote, alt, or sit in Pa liament, because they are not e. Juffification . P. letted by the people as Knights and Burgeffes are; aftering, 10. Regal Ty- (b) That they are no natural issues of our Laws, but the Exerred, A Decla- bisances and Museromes of Prerogative, the Wenns of inst Govacion from his vernment, the Sons of Conquest and usurpation, not of choice and Excellency, o election, intruded upon us by power, not made by the people from the General council of the whom ALL POWER, PLACE, and OFFICE that is just Army, Jan. 11. in this King dom: OUGHT TO ARISE; meer as bitrary Ty. rants, Usur pers, an illegitimate and illegal power and Judica-Speeches, Gerory, who act and Vote in our affairs but as INTRUDERS; at a conference newly publib-who ought of right not to judge, confure, or imprison any Comed by Walker, moner of England, even for libelling against them, refusing to printed verba-appear before them, reviling and contemning them and their sim out of Authority to their faces at their very Barr (as Lilbarn, Over-Dolman the ton boast and print they did) or breaking any of their undoubt-Fefuit bis Eooh, condemn ed Privileges. To accomplish this their delign the ed formerly as better, they endeavour by their most impudent flattery to treasanable. ingage the House of Commons against the House of Peers, (b) Regal Ty- he better to pull them down; stilling and proclaming the red. Lilburns Commons in their (e) Petitions and Pamphlets, "The Just Man in "ONLY Supreme legal Judicatory of the Land, who Bonds, p. 1, 2.11 ought BY RIGHT, to judge the Lords and their pro-A Pearlin a ce ceedings, from whom they appeal for right and repara-Free-mans Freedom vindicated, An Anatomy of the Lords Tyranny; his Argument and Plea before the Committee against the Lords Authority; his Petition to the Commons, his Letters to Henry Martin: Overtons Arrow of Defiance shot into the Prerogative Bow. els of the House of Lords; his Petition and Appeal, A Defiance against Arbitrary V surpation, The Agreement of the People and Petitions wherein it was prefented to the House of commons, An Alarum to the House of Lords. See M. Edwards Gangrana, part. 3. p. 191, to 204. (c) Overtons Petition and Appeal to the High and Mighty States, the Knights and Burgesses in Parliament assembled, Englands legal Soveraign Power, The Remonstrance of many thousands to their own House of Commons, A printed Petition (now in agitation) of many Free-bren people to the only Supreme Power of this Realm, the Commons in Parliament affembled. The Anatomy of the Lords Tyranny, An Alarum to the House of Lords. See M. Edwards Gangrana, part 3. p. 154. 10 204.

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crions against the House of Peers; affirming, That in the "Commons House alone resides the formal and legal Su-" preme Power of England, who ONLY are chosen by the "People; and THEREFORE IN THEM ONLY is the "power of binding the whole Nation, by making, alte-"ring, or abolishing Laws, without the Kings or Lor's concurrent affents: to whom they now ablolutely dece ny any Negative voice; making the Commons a compleat "Independent Parliament of themselves; & therefore pre-" fent all their Petitions, add effes to them alore, without any acknowledgment or notice of the House of Peers, to whom they deny cany tight or title to fit or vote in Parliament, "unless they will first divest themselves of their Peerage, " and Barons right of Session, and submit to stand for the " next Knights and Burgeffes place in the House of Common that shall fall void; where, if they may have any voice or influence, the meanest Cobler, Tinker, Weaver, Waterman, shall be elected a Knight or Burgels, sooner than the best and greatest Peer, and every John of Leyden preferred before King or Prince Charls himself: Sie Scepera liganibus aquant; Which Petitions and Pamphlets of theirs have to puffed, to bladdered up many Novices, and raw Parliament-men in the Commons House, unacquainted with the original Constitution, hounds, proceedings, Laws, Cultoms of the Parliaments of England, that they begin to act, vote, dispose of the Army, Navy, &c. without, yea against the Lords, not expecting their concurrence, constary to all former proceedings of Parliament, the Lords just Privileges, and their own Solemn League, Covenant, to maintain them; which may prove very destructive to both Houfes, the Parliament, King, Kingdom; oppressive to their Representatives the people, (who generally dislike it) if not timely redressed, and breed such a deadly fend between the Houses, as may foon ruine them both and the . See M. Ed-Kingdom to boot. The end of thele Anabaptifts, Level- ward Caneraters, Lilburnians being only to * deflroy the Parliament, by me, pat 3. "fetting both Houses at variance, they inveighing as bir wice their " terly against the power, proceedings, Ordinances, Votes, fi med,

"Members,

"Members, undue Elections, unequal Constitution of the House of Commons, as they do against the Lords, Hereupon they have most earnestly pressed in their (d) Pama.
phlets, their late (e) Remonstrances, Engagements from

(d) Lilburns "their Confederates and Agitators in the Atmy, a speedy friend. Inno- " period and dissolution of this Parliament, a new modelcency & Truth ling and more equal distribution of the Members in the his late Letters" very House of Commons for the future, &c. All which to Cromwell, Petitions, Papers Remonstrances, Pamphlets of theirs tending H. Martin, Sir to the utter subversion of Parliaments, the fundamental Thomas Fair-fax, and others, Laws, Government of the Kingdom, year to an introduction of arbitrary popular Polarchy and Tyranny, are rather to be Englands ranked among and more agreeable to fack Cades, or the Birthright. Englands la-Earl of Straffords and Canterburies Treasons, (which they mentable Slaexceed by many degrees) than to be flighted or countevery. Another nanced as they are; the keeping up the honour of our word to the Peers, the rights, Privileges of both Houses within their wise. Comparata comparan-just bounds, without interfeiring or incroachment upon dis, Liberty one another, or invading the peoples Liberties, being againstancy, one another, or invading the peoples Liberties, being The Arraign- the only probable means of their, of our prefervation, fetment of Perfe- tlement, security; Upon which consideration, I shall here cution. The Or- endeavour as briefly, yet fully as I may, to vindicate the dinance against undoubted Right of the Lords or Peers of this Realm to Tithes unmounted, See fit, vote in Parliament, notwithstanding they are not e-M. Edwards lested by the people; and to make good their right, power of Judicature, as well of Commoners as Peers, against all the Gangrana, part.3. P. 109 cavils of Jesuited Anabaptistical Levellers, Lilburnians, (e) See the fe- Sectaries, Agitators, whom I hope fo fart to filence and veral Remon- stop their mouths, if not convince their judgements, that frances from they shall never be able to reply hereunto. his Excellency

ois Excellency and the Army, from June, til December last, 1647, and since in November and January, 2648. The Agreement of the people, the grand Design, Putney Projects.

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"Che I." Baron who Natio hund Saxon now i storica cils of 56.10

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SECTION. 1.

Proving the Lords antient undoubted Right to fit and wote in all English Parliaments, with the Grounds thereof, though not elected by the People.

The sum of all these Levellers object against the Lords right of sitting, voting, judging in Parliament, is this:

(f) "That they sit there only by Patent, by the Kings will, (f) Overtons Tenure or descent; not by the Peoples free Election alone, Desiance as as the Knights, Citizens, and Burgesses doe: That the gainst all arbitime people never intrusted nor invested them with any pow- on of the House et, but the King; That they represent themselves only of Lords, 0,5,6 mot the Commons; and are the Sons only of Conquest, 15,17,18, his of Usurpation; (brought in by the Conquerour,) not of all Tyranis, p.

"Choice and Election, 6.10, The same the Poles Fig. 11, 12.

1. To this I answer : first, That our Lords, Dukes, Earls; and others Barons, Nobles (yea Archbishops, Bishops, Abbots, Priors too forceited. a. & who held by Barony) iate antiently in all our General ". National Councels and Parliamentary Assemblies, many * hundred of years before the Conquest, both in the Britons and * See my, Hi-Saxons reigns, by right of their Peerage and Tenures, as Icaion of the now they doe, as I have unanswerably proved in My Hi-ancient Par-Storical Collection of the antient Parliaments and Great Coun-liaments and cils of England: My Antiquity triumphing over Novelty, p. Great Coun-56. to 80. And in my 1,2, and 3. Parts of A Seafonable cils of Engand Legal Vindication and Chronological Collection of the good land. old Fundamental Laws, &c. of all English Freemen. Which (g) Epitt. to is likewise attested by Modus tenends Parliamentum, (g) it his 9. Repore, Edward Cook, Vowel, (b) others, and all our Historians; Institutes on Therefore this is a gross miltake, That they are the Sons of Littleton, p. Conquest introduced by the Conquerour : The rather, because c. v. in all Empires, Kingdoms in the world, though free and (b) M. Seldens

nour, part. 2. ch. 5. where this is abundantly manifested, Spelmanni Concil. Tom. 1. Truth triumphing over Fasshood, Antiquity over Novelty, p. 36, &c. The Freeholders Grand Inquest, p. 4. to 20.

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never conquered, their Princes Dukes, Nobles, Lords and great Officers, have ever fate in all their Parliaments, Senates and General Councels of State, by realon of their Fonors and places only, without any popular Elections; as is clear by these Texts of Scripture, 1 Chron. 23.1, 2. c. 28. 1, 2. &c. c. 29. 1.6. 24. 2 Chron. 1, 2, 3. c. 5. 3, 4. &c. c. 23. 2, 3. 20. 21. c. 30. 2, 3, 6, 12. c. 34. 29, 30. c. 35. 7. 8. Neh. 8. 38. c. 10. Esther 1. 13. to 22. Dan. 3. 2, 3. 2 Chro. 29. 30. c. 32. 3. Ezra 9. 1. c. 10. 8. 1 Sam. 5. 8. c. 29. 3. to 10. Psa. 68. 27. Prov. 8. 15. 16. Isa. 19. 11,

* Sce 1 Chro. 12, 13. Jer. 17. 25. c. 26. 11. 16. c. 36. 12. 14. c. 37. 14, 19. 3. 2 Chron 15. c. 38. 4. 25. 27. Dan. 6. 1, 6, 7, 8. Jonah 3. 7. Pía. 2. c. 32. 3. Num. 2. Iía. 1. 23. 26. * compared together, and by all Histo.

10.4. Joh. 9. rians and Politicians testimonies.

15,8C. C. 17.4. 2. Secondly, that they fit there only by the Kings Pa-Num. 32. 2. tent is falle : For first, many Peers, Nobles have been crea-&c. 21. (i) See M. Sel- ted in and by (1) Parliament, at the Commons earnest Petiticiens Tatles of one, by Patents confirmed in Parliament, of which there are Honour, F.2. many Presidents. Secondly, though the Kings Writ or ch. s. 14E. 3.n. Patent create others of them Peers, Barons, without the 35. 9 R.z. n. 16. 20R.2.n. peoples confent, yet the Laws and Statutes of the Realm 16. 20 R 2. n. made by the Commons conferes, and approved by the 80. 1 H.4.n. people, allow the King this power, yea authorize (k) en-1 offic f.g. 16. Toyn all Lords, Barons, to fit in Parliament, when thus creaned, if there be no just exceptions taken to them by the with many Houses; therefore though they are created Lords and fit more. (h) 5R.2. Star. in Parliament by the Kings Patents or Writs onely, by 2.c.4. 31 H.8. way of infirument or conveyance, yet originally they are C. IO. made Lords, and fit there only by the Laws and Statutes of the Realm, to which all the people have conferred; of which more hereafter. Thirdly, all antient and new Cities, Burroughs who fend Citizens or Burgesses to Parliament, and Counties, who fend Knights to Parliament, were originally created and invested with this power to

(1) See Litt.c. elect Citizens, Burgesses, and Knights for the Parliament 10. Sect. 162, (1) only by our Kings Letters and Charters, not by the Peo164. & cook ples inherent Right of Election; since none of them doe lbidem. 49 or can choose or send Knights, Citizens, or Burgesses to Parliament

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Parliament (m) without the Kings Charters authorizing (m) Cook 4. them, and his Writs to elect them first directed to them Instit. c. 1.8c but only by power and vertue of them; Therefore if the risdiction of Lords sitting in Parliament be illegal, unwarrantable, be: Courts, c.1. cause they sit only by Patents and Writs from the King; the sitting of Knights, Citizens, Burgesses must be so too, because they are elected only by the Kings Writ, and the people enabled to elect them only by his Patents, the* 1 R.2. c.4.

"power of creating Counties, Cities, Boroughs, Knights, be-8 H.4. c. 14. ing originally in the King, as well as the power of creating 8 H.5. c. 7.

Lords and Barons.

3. I. H. 7. 12. 2 H. 7. 2. 2. 5 H. 7. 9 H. 7. 12. 14 H. 6. 12. 7 E. 4. 14. 15 E.

3. 1. 1 H. 7. 12. 2 H. 7. 3. 2. 5 H. 7. 9 H. 7. 12. 14 H. 6. 12. 7 E. 4. 14. 15 E. 15. Cook 1. Instit. 250. 2. Brook, Tit. Parliament, Corporations.

3 Thirdly, that the general election of the people is not absolutely necessary, nor essential to the making of a Lawfull King, Magistrate, Counseller of State, Peer, Member of Parliament, (nor yet of a Minister) as the Objectors falfly precend, who take it for granted as an infallible truth and Maxim of State: For then it will necessarily ensue from hence. 1. That " God himself is no lawfull . Pfal. 47. 2, King or Governour over all the World, and creatures in it, be 6, 7. Pf. 95.3. cause not chosen or elected by the General Voice of the Psal. 98. 6. Creatures and Mankind to be King over them; and because Plal, 103.19. the greatest part of men reject his Yoak, Laws, Government, Exod. 5. 2. Plal. 2. 1; 2, 3, 4. Lu. 1. 14. 27. yet the Lord Still reigneth as a Lawfull King over them, by his own Right of Creatorship and Godhead, Plat. 95. 3. 5. Pf. 96. 10. Pf. 97. 1. Pf. 99. 1. Pf. 100. 3. Pf. 103. 15. Jer. 10.7. Dan. 4. 32. 34. Pl. 10. 16. Plal. 22. 28. Pl.

2ly, That Jesus Christ himself, who is a King by birthright, Souship, and inheritance only, being born King of the
fews, sitting upon the throne of David his Father, and regning over the house of Jacob for ever, by verue of his Souship
only; as Mat. 2. 2. Lu. 1. 32, 33. Pl. 2. 6, 7, 8. Heb. 1.5,
8, 9. Acts 13. 22, 23, 33. Ezech. 34. 23, 24. c. 37. 24,
25. Mar. 11. 9. 10. Ila. 3. 6, 7. c. 11. 1, 2, &c. Jer. 33.

15, 17, 20, 21. c. 23. 5, 6. c. 30. 4. Hol. 3. 5. Rev. 2.2 &cc. refolve, & was not chosen King by his Saints, Church, Subjects, people, but chuseth them to be his Leiges, John 15.16. Eph. 1. 4. 1 Pet. 2.9. Rev. 17. 14. Deut. 14. 2. Ps. 132. 13. Psal. 135. 4. shall upon this account be no lawfull King or Governor over his Saints, Church and Subjects; but a meer Usurper, Intruder, Tyrant over them, (as they stile

(n) Exod.3.& Kings by Birthright, not popular Election) which is the

4. & 7. highelt blaiphemy to affirm.

(0) Deut.3 28. 3ly, Then it will likewise inevitably follow, That nei-Num. 17.16.to 23. Deut. 31. ther (n) Moses, (o) Joshua, (p) Nehemiah, (q) Sanl, (r) Da-5. to 9. 14. 23. vid, (f) Solomon, nor any of the (t) pious Kings of Juda, c.34 9. Iofh. 1. nor Christ himself, and other Kings who came to the Crown by * Gods immediate designation, or by descent, &c. (9) I Sam. 9. birth right and lineal succession, were just, lawfull Gover-16. c. 10. 1. nors or Kings, which none dare averr; That the (v) 70. 21 Acts 13.21 Elders, the Princes, (x) Nobles, chief Captains, Judges, and (1) Pfal. 78.70, Rulers under Mofes, and their Kings, with other Gover-71,72. I Sain. nours, and the Jewish Sanhedrim, were no lawfull Judges, 16. 2 Sam. 7, 8. Magistrates, Counsellers of State, or Members of their (1) 1 Chron, general Congregations, Parliaments, assemblies, since we 23.1. c. 28. 5, read of none of them chosen by the people, but only de-6. 2 Chr. 1. 8. figned by * God himself, or made, created such by their (t) 2 Chron. Igned by God himself, of made, cleated tuen by their 14.1, c. 17.1. Kings, Governours, who both called and summoned them to c.28. 27. c.29. their general congregations, assemblies, judicatures, as the 1. Ads 13.20, premiled texts and others evidence. That (y) fofeph, (z) Mordecai, (a) Daniel Shadrac, Mesec, Abednego, were * 2 Sam.7.12. no lawfull Rulers or Magistrates, because made such even Pfal.132.11, 12, 2 Sam. 13. by Heathen Kings, not by the peoples choice. And that 1. I Kings 14

20.35. c. 15. 8. 24. c. 16. 6. 28. c. 22.40. 2 Kings I. 17. c. 3.27. c. 8. 24. c. 10.35. c. 12.21. c. 13.3. 24. c. 14. 16. 19. c. 15. 7. 22. 38. c. 16. 20. c. 19. 37. c. 20. 21. c. 21. 26. c. 24. 6. 1 Chron. 29. 28. 2 Chron. 12. 16. c. 14. 1. c. 17. 1. c. 21. 1. c. 22. 1. c. 23. 3. c. 24. 27. c. 1. 23. c. 27. 9. c. 28. 27. c. 32. 33. c. 33. 10. 25. c. 36. 1 Jer. 22. 11. I lay 19. 11. c. 37. 38. Matth. 2. 2. (v) Num. 11. 16. 17. 24. 25. 26. 27. (x) 1 Chron. 18. 15. 16. 17. c. 26. 29. 30. 31. 32. c. 27. c. 28. 1. Exod. 18. 25. 26. 2 Chron. 19. 5. 10. 7. 1 ludg. 3. 9. 15. c. 2. 16. Acts 13. 20. Num. 27. 15. to 23. Exod. 18. 25. 26. Num. 1. 4. to 18. 15am. 8. t. 1 Chron. 26. 30. 32. 2 Chr. 19. 5. to the end. (y] Gen. 40. 40. 41. &c. Exod. 18. 25. Plal. 105. 21. Acts 8. 10. (x) Ether

8. & 10 [a] Dan. 2. 48, 49.

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none of the Lewites, Priefts, High Priefts, or Prophets under the Law were lawfull, because none of them (that we read of) were made Levies, Priefts, High Priefts or Prophets by the peoples own choice, but by (b) descent and fire- Num . 1. 2: 3, coffion in the felffame Tribe; or by Gods over immediate call & 4 1 Claon. and appointment; as * John Baptist, + Christ himferf, the 6.23. 6.25 25. * Apostles, the 70 Disciples, and others under the G pel were & 26. Nonb. made Winisters, apostles, Evangelists, preaching Elizes, 5. 4. without the peoples call; yet our opposites dare not de . Mic. t. ny their Ministry and Apostleship to be lawfull, being not + 10.6 + c. of men, but by Gods and Christs own call, without the 65. 1011. 20, peoples.

Fourthly, then it will from hence also follow; that all 9.10. Mat. 28. Hereditarie Kingdoms, which (c) Politicians and Divines 19,20 I hn generally hold the best of Governments, being the title 20. 21, 1 Cor. of Christ himself to his kingdom; all(d)Patents, Commissi- 1,17. Gal 1 1. ons in all Empires, Kingdoms, States of the world creating Princes, Dukes, Earls, Lords, and fuch like Titles of [6] Cafe Po-Honour, (whereby they are inabled in all Christian king lad. 3. c. 2. doms to fit, vote in their Parliaments and Assemblies of Bodin de Re-State) for making Privy Counsellers, Judges, Justices and o- Pub. 1.2. C. 2, 3. ther Magistrates, are void, null, illegal; and so all the de Rege & Laws, Orders Ordinances made, Acts done, and Judgments Regum, Inflit. given by them, are void or erroneous, because they were 1.1 c.3, 4. not chosen, called to these publike places, Counsels, Ju- [a] see M. dicatures by the people, but by Emperors, Kings, and Su of Honor. preme Governours of State; and what a confusion such a Paradox as this would breed in all our Realms, in all States, Kingdoms of the world, let wife men confider, and those fools too who make this Objection.

5. Fifthly, if there be no lawfull Authority in any State but from the Peoples immediate election, then it will necessarily follow; that Sir Thomas Fairfax is no lawfull General, his Officers, Councell of Warr no lawfull Officers or Councel; yea Colonell, and Lieutenant Colonell Lilburn, no lawfull Colonel or Lieutenant-Colonel, and ought not to use or retain these titles, as they doe, because none of them were called, chosen to those places by the People,

21.8-0.5.4050 * Mar. 10. 1. Selders Titles

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or common sourdiers, but made such by Commission from the Parliament, General, or Lords alone.

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6. Sixthly, This paradox of theirs, touching the peoples choice, call, to inable Peers to fit in Parliament, or bear any office of Magistracy or Judicature, is warranted

*See Mar. 2. 2. by no law of God, in old or new Testament, both which con-Row. 13. 1, 2. tradict it: by no Laws or Statutes of these Kingdoms, Exod. 18. 25, Nations, which absolutely disclaim it, and enact the conto 20. c. 7. 2. trarie: by no Original Law of Nature, which as all e) Poc. 10. 4. c. 23. 6. littians and Divines affert, and the Scripture manifests, at c. 27. 2 c. 32. 2. first gave everie Father a Magistratical and Judicial rule, 10sh. 9. 15. 19. power over his children, progeny, Family; and made him 1 Sam. 23. 3, 4. power over his children, progeny, Family; and made him 9. 2 Sam. 10. a King, Prince, Lordover them, without either their choice or 3. 1 Chron. 13. call; the Father and first born of the samily, being both 1. &c. c. 23. 2. the King, Prince Lordover it, and Priest to it from the Creaces. 1. 2 shoot tion till the Law was given, as is generally acknowledged 1. 23. 1. &c. 20. by all Divines: as God himself is King over all the earth, c. 29. 30. c. 30. world, as Creator and Father thereof.

1,2,&c. c. 32.
3. c.34. 29. [e] Arig. Polit. 1. 1. Bodin. de Repub. 1. 1. c. 2, 3, 4, 5. Dr. Fields of the (hurch, 1. 1. c. 1, 2. Seldens Titles of Honour, 1. 1. c. 1. sect. 3. Gen. 23.
6. c. 10 9, 10. 31, 32. Exod: 21. 15, 17. Deut. 21. 18, 19. * Psal. 47. 2. 6, 7.
8. Psalm. 29, 10. Psalm. 95. 3, to 8. Isay 43. 15. Ierem. 10. 7. Ephes. 4. 6.

Heb: 12. 9.

7ly, It is very observable, that God himself expressly denied to his own people Israel the free election of their Kings and Supreme Governors, reserving the choice of them only to himself, as his own Prerogative: witness that notable text of Deut. 17.14, 15. When thou are come anto the Land which the Lord thy God giveth thee, and shalk possess it and dwell therein, and shalk say, I will set a King over melike as all the Nations that are about me: Thou shalt in any wise set him King over thee WHOM THE LORD THY GOD SHALL CHUSE: not the people. Upon which account, when the Israelites grew wearie of the Government of Samuel and his Sons; all the Elders of Israel gathered themselves together, and came to Samuel unto Ramah, and said unto him: Behold thou art old, jand thy Sons walk

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walk not in thy wayes: Make, or Give thou us a King to judge us, like all the Nations: not taking upon themselves the power to nominare and elect their very first King; but referring the choice to Samuel himself: Who thereugon prayed unto the Lord for direction therein: After he prayed, God commanded him to hearken to the voice of the people, and to make them a King, I Sam. 8.4. to the end; yet fuch a one as God himlest, not Samuel or the people should appoint; For foon after God told Samuel, that to mo row about this time he would fend him a man out of the Tribe of Benjamin; and thou shalt anoint him to be Captain over my people Ifrael; whereupon Saul coming to him at that time, when Samuel faw him; The Lord faid unto him, Behold the man whom I spake to thee of, this same shall reign over my people; then Samuel took a horn of oyl and powred it upon his head and kiffed him, and said, Is it not BECAUSE THE LORD HATH ANOINTED THEE KING OVER HIS INHERITANCE? Who being afterwards brought forth before all the people assembled at Mizpeh, Samuel faid to all the people, See ye HIM WHOM THE LORD (not I, or you) HATH CHOSEN, that there is none like him among all the people: Upon which all the people shouted and faid, GOD SAVE THE KING. I Sam. 9. 16,17. c. 10. 1.17. 23, 24. So that God himself, not Samuel, nor the people, elected and made Saul King over his own people; which is further evident by the I Sam. 15.17. 35. After which God rejecting Saul from being King, he both elected, appointed, and anointed Davidto be King over Ifrael, 1 Sam. 16. 1. 12, 13. Plalm. 78, 70, 71. 2 Sam. 7. 8. 1 Chron. 28.4. Whereupon all the Tribes, after Sauls death, came to Davidto Hebron, made a League with him, and anointed him King before the Lord, upon this account; that the Lord had said unto him; Thou shalt feed my people Israel, and thos halt be a Captain over I frael, 2 Sam. 5. 1,2,3. acknowledging therby the choice of their King, to be Gods peculiar right, not theirs. Af er which God himfelf, to manifelt the choice of their Kings to be, not in the people, but in his own diff ofal (b, ing but his Vicegerents, Substitutes,

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and litting upon his throne, to be Kings for the Lord their God, 2 Chron. 9. 8. Isay 44. 28. Acts 13. 22.) setled the inheritance of the Crown, and Kingdom of Ifrael in David, his Sons and posterity for ever, appointing Solomon his Son immediately to succeed him, and making him King over his people, as is evident by the 2 Sam. 7. 8. to the end, 1 Kings 5.5. c.6.12. c.8.20. 1 Chron. 22. 20. c. 28. 4, 5,6, 7. 2 Chron. 1. 8, 9. c. 2. 11. Píal. 89. 3,4,20. 10 38. 2 Chr. 23.3. c. 6, 16. c. 7. 18. 1 Kings 15. 4, 5. Jer. 33. 15.17. 20, 21. c. 23. 5, 6. c. 30. 9. Ezech. 34. 23, 24. c. 37. 24, 29. Hol. 3.5. Lu. 1. 32,33. Upon which account afterwards, when the ten Tribes revolted from Rehoboam and the House of * David against Gods institution, and * 2 Kings 17. made Jeroboam their King; God thereupon chargeth it upon them as a high incroachment upon his prerogative, in these terms, Hofea 8. 4. They have fet up Kings , but not by me, they have made Princes, and I knew it not. And hereupon Abijah (heir by hereditarie succession to David) thus charged feroboam and all Ifrael with rebellion against God and Rehoboam therein, 2 Chron. 13, 5,6,7, 8. Ought you not to know; THAT THE LORD GOD OF ISRA-EL GAVE THE KINGDOM OVER ISRAEL TO DAVID FOR EVER, EVEN UNTO HIM AND TO HIS SONS BY A COVENANT OF SALT? But Jeroboam the Son of Nebat, the Servant of Solomon, the Son of David, is rifen up, AND HATH REBELLED A-GAINST HIS LORD. And there are gathered unto him vain menthe children of Belial, and have strengthned them-

selves against Rehoboam the Son of Solomon, when Rehoboam was young and tender hearted: And now you think TO WITHSTAND THE KINGDOM OF THE LORD IN THE HANDS OF THE SON OF David, and ye have a great multitude, &c. Ochildren of ifrael fight ye not against the Lord God of your Fathers, for YOU SHALL NOT PROSPER. And God smote Jeroboam and all Israel before Abijah (the right heir) and Judah, and God de-

livered them into their hand: And Abijah and his people New them with a great flaughter: So there fell down flain of Ifracl five

five hundred thou fand cho fen men. The greatest flaughter we ever read of in one battel in facred or prophane Histories. If then God allowed not the free election and nomination of Kings and Surreme Governours to his own people of Israel, their Tribes or Elders, but reserved it only to himself, as his own peculiar prerogative; which they might not intrude upon without high prefumption, and exemplarie punishments, as the ferecited Scriptures, with ludges 2. 20. Acts 13. 20, 21, 22, 23. undeniably evidence. By what Law of God or Nature any other vulgar rabble or people of God, can now challenge this as their proper birthright, and natural inherent due, to elect all their Kings, all their Supreme, or subordinate Officers, and all Peers of Parliament, (especially in an hereditarie kingdom,) transcends my reason to comprehend; unless they will blasphemously tax God himself for injuring his own peculiar people, in usurping upon and depriving them of this their Natural right and freedom.

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8ly, The Scripture is most express and positive, That it is God who removeth Kings and setteth up Kings, Dan. 2. 28. That the God of Heaven setteth up kingdoms and Kings: That the most high ruleth in the kingdoms of men, and giveth them to whom foever he will, Dan. 2. 44. c. 4. 25. 34,35. That promotion cometh neither from the East, nor from the West, nor from the South; but God (not the people) is the Judge, he pulleth down one and setteth up another, Pia. 75, 6, 7. He looseth the bond of Kings, and girdeth their loins with a girdle: He powreth contempt upon Princes, and weakneth the strength of the mighty, Job 12. 18, 19. Whereunto God adds, Prov. 8. 15, 16. By me Kings reign, and Princes decree Justice. By me Princes rule, and Nobles, and all the Judges of the earth. Hereupon Samuel used this speech to King Saul: 1 S.m. 15.26.28. The LORD hath rejected thee from being King over Ifrael. The LORD hath rent the kingdom of I (rael from thee this day, and hath given it to a neighbour of thine better than thou. Yez, the Apostle, Rom. 13. 1, 2, 3, &c. commands Every Soul to be subject to the higher powers, not only for fear, but conscience sake, upon this ground, For there is no Power but of God: the powers that are are ordained (or ordered) of God; and they are the Ministers of God to men for good. Hence God and Christ are stiled, The only Potentate, THE KING OF KINGS, AND LORD OF LORDS, The Prince of the Kings of the Earth, I Tim. 6. 15. Rev. 1. 5. c. 17. 14. c. 19. 16. because they only by meer original right dispose of all Kings, Lords, Potentates, kingdoms. Upon which reason the Apostle concludes, That all created things in heaven and in earth, whether they be Powers or Principalities, or Dominions, or Powers, are created BY AND FORCHRIST; that in all things he might have the preheminence, might, and dominion, being exalted far above all Principalities and Powers, Col. 1. 16, 17, 18. Eph. 1. 20, 21. By what divine, natural, inherent just right or Title then the Commons or Vulgar people of our own or other Realms can challenge to themselves the sole power of electing, ferting up and pulling down their Kings, Princes, Lords, Judges, kingdoms, Principalities, Powers, Dominions, at their arbitrarie pleasures : of setting up, pulling down, or electing their Supreme or Subordinate Governors, Magistrates, and all Peers of Parliament at their wills; of dispoing kingdoms, Powers, Lordships to whomsoever they please (as these Bedlam Objectors plead they may) without contradicting all these Sacred Texts, and intruding upon thele royal incommunicable Preheminences, Prerogatives of God and Christ, let all popular pretenders to, or advocates for such a power in the people and Commons of the Realm, resolve me and all others when they are able, against all these Texts, oppugning this their claim and interest.

9. Ninthly, I answer, that a particular, explicit actual choice and election by the people, of any to be Kings, Magistrates, Judges, Ministers, Peers or Members of Parliament, is neither necessarie nor convenient to make them just and lawfull, except onely when the Laws of God, of Nature, of Nations, or the kingdom express require it; but onely a general implicit or tacit consent; especially when the antient Laws of the Land, continuing still in full

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force, and the cultom of the Kingdom time out of mind, requires no such ceremonie of the peoples particular election or call; in which cale the peoples diffent is of no validitie, til that Liw an I custom be repealed by the general confent of the King, Lords and Commons in Parliament. + Cook 4 In-Now the * antient Laws, Statutes, and Customs of the King flit. c. t. p. t. dom, enable all Lords who are Peers and Barons of the Realm &c. Seldens 5 to se in Parliament when ever summoned to it by the Kings nour, part 2. Writ, without any election of the people; and if the Laws and ch. s. Cambd. Customs of the Realm were, that the King himfelf migh. Brit. call two Knights, Citizens and Burgefles to Parliament, fuch as * himself should nominate in his Writ out of every fee 38 H. 6. County, City and Borough, without the Freeholder., Ci. n. 35. tizens, and Burgeffes election of them, by a common agreement and confent to fuch a Law and usage made by their Ancellors, and submitted and consented to for some ages without repeal, this Liw and Cultom were sufficient to make such Knights, Citizens and Burgesses lawfull Members of Patliament, * obliging their potterity whiles . Num, 32,10 unrepealed; as well as their Warranties, Obligations, Sta- to 38. John. 23. tutes, Feofments, Morgages, † Oaths, and altenations of 23. to 31. their Lands, as the Objectors must acknowledge; there-Esth. 9. 27,28. fore they must of necessity grant, their present sitting, vo. 31,32. 1 Sam, ting and judging too in Parliament, to be lawfull, because 2, to the end, thus warranted by the Laws and Customs of the Realm. 2 Sam. 21.7. Piov. 22, 28, c. 23. 10. 1 Sam. 30. 24, 24. Deut 19. 14. c. 27. 17. Joh. c. 13. to ch. 23. Sec Lit-

tleton, Firz Herbert, Brook & Albe, Tit. Warranty, Obligation, Covenant, &c. † Josh, 9. 15. to the end, 2 Sam 21. 1, to 15. Gen, 50. 25. c. 13. 19. Iosh, 24 32. 1 Sam, 20. 42. 2 Sain. 21. 7.

10. If all Power in Government, all right of litting, judging, and making Laws or Ordinances in Parliament, be founded upon the immediate free election of all those that are to be Governed, and if it be of necessity, that all who are to be subject and obey ought to be represented by those who have power in Gov. rn (i) See M. ment; the Sum of (1) Lilburns, Overtons, and the Levellers Edwards his reasons against the Lords Jurisdiction; then it will of ne-part 3. p. 142. cellity follow, (If this be good Divinitie and Law) that to 162.

the

bind the Jews or Christians, because made without their common consents, or any to represent them: Then the Laws, Decrees of the Medes and Persians, made by their Kings alone, or by them and their Princes, without any representative of their People, (as is evident by Esth. 1. 13. to the end: ch. 3. 8. to 15. ch. 8. 8, 9, &c. c. 9. 32. ch. 10. 1. Ezr. 1. 1, &c., ch. 4. 6. to 24. ch. 5. 13. 17. c.

6. 1. to 15. c. 7. 11. to 27. Jonah 3. 6, 7, 8. Dan. 6,7, 5,

Laws, &c. should be meer Nullities by this Doctrine, because not made by the Peoples previous consents and representatives: Yea then the Orders, Votes, Ordinances,

and Laws made, or consented to by the Knights, Citizens

and Burgesses in Parliam. ought not to bind any Ministers, Women, Children, Infants, Servants, Strangers, Freehol-

ders, Citizens, Burgesses, Artificers, or others, (who cannot well, properly be represented but by persons of their own

fex, degrees, trade, calling; & so each sex, trade, in each county, Corporation of Engl. should lend Members of their own to Parliament to represent them) but only such Freehol-

ders and Burgeffes who had voices in, and gave free con-

fent to their Elections, not any who have no voices by

Law, or differed from those elected and returned; Yea then it will necessarily follow; that those Counties, Cities and Boroughs whose Members have been injurial

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9.) were meer nullities, and not binding to the commonalty. Then the Laws of David, his Captains and Princes,
concerning the Levites, Priests, Temple, &c. I Sam. 30. 2.
45. 2 Chron. c. 22. to ch. 29. with all our own antient
British and *Saxon Laws, (made by our Kings and Nobles alove, without any Knights, Citizens or Burgesses elected by,
or representing the people; as were all our Laws and
Acts before Henry the 3d his reign, both before and after
the Conquest (as we usually call it) though many of them
yet in sorce and vigor.) With all antient Lawes made by
Kings alone being the only Law-makers in all Nations at
first, as * Justine and others attest, and Ezr. 7. 26. Esth. 3.
8. Isay 33. 22. intimate: whence they are stilled the Kings

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oufly impeached, suspended, driven away, or thruit out of the House of Commons by the Objectors and the Armies practife, violence (contrary to all former prefidents) are abiolutely free, exempted from, and not bound by any Votes or Ordinances made, or taxes imposed by the Commons House, because they have no Members to represent them refiding in Parliament; and that thole Councies and Boroughs whole Knights and Burgesles are dead or absent, are no wayes obliged by any Votes, Ordinances or Grants in Parliament: And then how few in the King dom will or ought to yield obedience to any the Acts, Or dinances, or Votes of this prefent Parliament, or to a Mayors, Sheriffs, Aldermen, or Heads of Houses made their Votes and Authority, (usually made by elect heretofore) or to any Judges, Justices, Governours, (nerals, Captains, or other Militarie Officers made by their Commissions or appointment, without the generality of In August the peoples Votes or confent; especially when above half, 1647. & funor three full parts of the Members were ablent or dri dry Months ven from both Houses, by the Objectors violence and me-following, much more

These Answers premised, which have cut off the head then since of the Objectors Goliah and chief Argument against the secured and Lords sitting in Parliament; I shall now proceed to the secured and Lords in Parliament; I shall now proceed to the secured and Proof of the Lords undeniable Right and Authority to sit, the Army in Vote, and give Judgement in our Parliaments, though not actually elected nor sent to them by the people, as Knights together with and Burgester are.

tient and modern Kingdoms and Republikes in the world, Lords. that their Princes, Nobles, Peers and great Officers of Ssate, have by their Original Fundamental Laws and Inflitutions, by right of their very (g) Nobility, Peerage, and (g) 31 H.8. c. great Offices, without any particular election of the people. 10. See Mr. a just right and title to fit, confult, Vote, enact Laws, and Selden Titles

Caffanzus Caralogus Gloriz Mundi: Alanso Lopez in Nobiliario, and orbers who weire of Nobility. Cambd. Britan, of the Nobility and Courts of Justice in England, and the texts of Scripture, p. 6.

give

give Judgement in all their General Affemblies of State, Parliaments, Diets, Councels; as might be manifelted by particular instances in the Kingdoms, Republikes, Parliaments, Die, s, and General A semblies of the Jews, Agyptiens, Grecians, Romans, Perfians, Ethiopians, Germans, French, Goths, Vandals, Hungarians, Bohemians, Polonians, Ruffians, Swedes, Scythians, Tartars, Moors, Indians, Spiniards, Portugals, Danes, Saxons, Scots, Irish, and many others: Hence Diony fins Halicarna fem, Antiquitatum Romanorum 1.2. Sect. 2. affirms, That both hereditary and elective Kings even in the antientest times, CONSILIUM HABEBANT OUOD EX OPTIMATIBUS CONSTABAT, bad a Council which confifted of Nobles and Great men, as Homer and the most antient Poets attest, Neque (ut nostro (eculo) Regum priscorum dominatus erat nimium sui juris, ne g, ab unius sentencia pendebat. Now to deny the like privilege to our English Peers and Nobles, which all Nobles, Peers in all other Kingdoms, Nations, Republikes antiently have enjoyed, and yet doe constantly enjoy, without exceptions or difoute, is a gross injury, injustice, over fight; yea a great dishonour both to our Nobility and Nation.

Secondly, By, and in the very primitive conflictation of our English Parliaments, for many hundred years together there were no Knights nor Burgesses at all, but only the King and his Nobles: after which, when elected Knights gettes were first sent to Parliament about 49 H. 3. it was granted by the Kings grace, and unanimously agreed by the kingdoms, peoples general consents, that our Parliaments should alwayes be constituted and made up, not of

ments should alwayes be constituted and made up, not of 10 H.6. c. 2. Knights and Burgesses only, (elected only by Freeholders & 32 H.6. c. 15. Burgesses, not by the generality of the vulgar people, who would now claim, usurp this right of Election) but like-lurisd. P. 1, 2. wise of the King, the Supreme Member, by whose (h) writs 3. Cook 4 Inthe Parliaments were and ought to be alwayes summoved, and sit, c.1. (h) Cook 4 In- of the Lords, Peers, Barons, (ecclesiastical, civil) and great stir, c.1. p.1.

10. Modus tenendi Parliamentum; Cromptons Iurifdiction of Courts, tir. "arliament; Mr. Seldens Titles of Honour, par, 2, c. 5. See the Abridgement of the

Records of the Tower.

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Officers of the Realm, who ought of right to fit, vote, make Laws, and give Judgement in Parliament by vertue of their Peerage, Baronies, Offices, without any election of the people: the Commons themselves being no Parlia. ment, judicatorie, or Law-givers alone, without the King and Lords, as Modus tenendi Parliamentorum; Sir Ed. Cook in his 4. Institutes, ch. 1. Mr. Seldens Titles of Honour, part 2.ch. 5. Vowell, Cambaix, Sir Thomas Smith, Cowell, Minshaw, Crompton, with others who have written of our English Parliaments affert, and all our Parliament Rolls, Statutes, (1) Law-books resolve without whose threefold (1)33 H.6.16.

concurrent assents, there is or can be no legal Alt nor Ordinance 39 E. 3. 7.35. of Parliament made, fince the Commons admission to vote 11 H.7.27.Br. in Parliament and affent to Bills, which was but of later Parl, 107. 4H. times, out of the Kings fr e Grace. 7.18.7H.7.14.

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Thirdly, This right of theirs is confirmed by prescription Cromptons and custom, from the very first beginning of Parliaments in Cook 4 Instir. this kingdom till this present, there being no president to p. 15.35. be found in Hillory or Record of any one Parliament held Forcesc. f. 20. in this Island since it was a kingdom, without the King Dyer 92. personally or representatively present (by a Protector, Custos tons Argu-Regni, Commissioners) as he ought to be, or without Lords ment of Mr. and Peers; antiently Itiled Aldermen, Heretockes, Senators, Hamdens cafe Wisemen, Princes, Dukes, Earls, Counts, Nobles, Great P. 22,23. men, &c. by our Hiltorians; who make mention of their constant reforting to, fitting, voting, judging in our Geheral A semblies, and Parliamentary Councils, under these Titles, without the peoples Election, (for many hundreds of years before the Conquerors time) in the antientest Parliamentary Councils we read of under the Britons and Saxons; witness Beda, Ingulphus, Geoffry Monmouth, Huntingdon', Matthew W. Stmmfter, Florentius Wigorniensis, Malmsbury, Hector Boctius, Speed, and others in their Hiflories; Antiquitates Ecclesie Britannica, Spelmanni Concilia, Tom I. Mr. Lambard his Archaion, Sir Edward Cook in his Preface to the 9. Report, and fourth Institut. c. I. M. Seldens Titles of Honor, part 2.c. 5. which I have largely manifested in my Trush triumphing over Fallhood, Antiquity

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ever Novels, p. 56.10 90. My Historical Collection of the antient Great Councils, Parliaments, &c: there being little (if any) express or direct mention at all of any Knights of Shires, Citizens or Burgeffes in any of our Parliamentarie Councils, before the Conquest, or in the Conquerors time, nor yet in the reigns of King William Rufus, Henry the 1. Stephen, Henry 2. Richard 1. King John, or first part of * Mr. Seldens the reign of Henry the 3d, the * first direct Writ of Sum-Titles of Ho-mons for any Knights, Burgeffes or Commons to our Parlianor, part 2, ch. ments, now extant, being that of Clause 49 H. 3. m. 10, I I. dorfo: before which no evident restimony can be produced for their fitting or voting in any great Councils or Parliaments as Members, but onely out of the Spurious pretended antient (though in truth late ridiculous) Trea-Edward Cook and others most rely: And whereas some

AInstir.p.12. tife, stiled Modus tenendi Parliamentum, on which * Sir conclude, that even in the antient Saxon Great Councils, the Commons were usually present as Members, being comprehended under the Titles of Sapientes, Seniores populi, Aldermanns, &c. (which in the dialect of those times fignifie rather Lords and Great Men, than Commons or Burgeifes, as all accord) or at least wife under these phra-

(i) Spelman. les, k) prasentibus omnibus Ordinibus illius Gentis, cum vi-Concil.p.194.ris quibu (dam Militaribus (rather Soldiers than knights;) (1) Spelman. of which we find mention in the Council of (1) Bechenceld, Ibid, p. 219.

Ann. 697. or, omnium Sapientum, Seniorum, & POPULO-RUM totins Regni: coupled with these pre-eminent Titles of, Omnium Aldermannorum, Principum, Procerum, Comitum, who met together in a General Council under (m) Spelman. Ine, Anno 713. Or (m) en juscunque Ordinis viros, in the

P.318. Council of Clovesho, An. 800. which expressions are now and then mentioned in some antient Councils and Parliaments, though rarely : yet these are rather conjectural or

(n) Hift.p. 870 probable, than direct or punctual proofs of what they af-(o) I Inftir, fert, whenas the Lords Title to fit and vote in them is most direct and infallible. And if that of (n) Ingulphus, with (p) Titles of other our Historians, and some Lawyers be true, (which (a) Honor, part 2 Sin Edward Color and (a) Mr. Selden denu) that King A. 6.5. Cc. 3. P 614 Sir Edward Cook, and (p) Mr. Selden deny) that King Alfred 615. &cc.

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fred first divided the Realm into Counties, as all grant he did into Hundreds and Tithings, and erected Huntred Courts, wherein Knights of the Shire were alwaies, yet are, and ought to be elected, there could be no Knights of Shires at least (if any Citizens or Burgeffes) to ferve in Parliament before this division; though there were Earls, Dukes, Barons before his reign (who were prefent by the Kings fummons, not peoples elections, at our Great Councils or Parliaments,) as (q) Mr. Selden, and (r) Sir Henry Spelman (q) Titles of undeniably manifelt, and I have " elfewhere proved at large. c. 5. fec. 2,3,4, Their fitting, voting judging therefore in Great Councils, 5. Parliaments, being fo antient, clear and unquestionable e- (r) Gloffariver fince their first beginning til now; and the sitting of um, tit. Comi-Knights, Citizens, Burgeffes by the peoples election, in tes,& Comiour antientest Great Councils, Parliaments, not so clear - Truth trily evident by History or Records as theirs : we must need sumphing over acknowledge, subscribe to this their Right and Title; or Falshood; An elfe deny the Knights, Citizens, Burgeffes rights to fit, Collection of vote in our Great Councils, Parliaments, rather than theirs, the Great who have not fo antient nor clear a Title or right as they, Councils and Parliaments by many hundreds of years.

Fourthly, This Right and Privilege of theirs is vested of England; legally in them by the very Common Law and Custom of a Legal and the Realm, which binds all men; By the unanimous con fent of all our Ancestors, and all the Commons of England Vindication from age to age assembled in Parliament, since they sat in any Parliament; who alwaies consented to, desired, and never opposed the Lords sitting, voting, power or Judicature in Parliament; and by "Magua Charta it self, sign. "King Johns ed and ratisfied by King John, wherein it is expressly grant. Magna Charted, Ad habendum COMMUNE CONCILIUM REGNI ta in Mal. Pade auxiliis assidentis, & de Scutagiis assidentis, submoneri facienus Archiepiscopos, Episcopos, Abbates, Comites & MAJORES BARONES REGNI singulatim per Literas nostras, & c. And in the Great Charter of King Henery the 3. they are first mentioned and provided for Herech. 2. 14. 191

upon King Henry the third (not long after Magna Char- 37. 38. ta was granted, and at the same time it was proclamed, confirmed

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confirmed with a most folemn Excommunication in the pre-Sence of all the Lords, and Commons, by all the Bishops of England, against the infringers thereof) summoning a Parliament at London in the year 1255. to aid him in his warrs in Apulia; the Eerls and Barons absolutely refused to give him any affiftance or answer at all, for this reason; Quoa omnes (Barones) tunc temporis non fueruni jurta tenozem Pagnæ Chartæ fuæ vocate; & ideo fine Paribus fuis tunc absentibus, nullum voluerunt tunc responsum date, vel Aurilium concedere bel prastare. (1) That ALL THE BAKONS were not temmoned by him to this Parliament, as thep ought to be according to the tenor of Magna Charta: whereupon they departing in disconteni, and refusing to set longer, the Parliament was first adjourned, and at last dissolved, Johns Speech And upon this very ground, among others, the Parliament of 21 R. 2. with all the Acts and proceeding therein were to-Shipmony, p. tally repealed and nulled by the Parliament of 1 H. 4. because the Lords who adhered to the King were summoned by him to the Parliament, and some of the opposite party imprisoned, impeached, unsummoned; and many of the Knights of the Thire were e'ested only by the Kings nomination, and Letters to the Sherifs: And the Parliament it felf kept by force, viris armatis, et sagittariis immensis, brought out of Cheskire, as an extraordinary guard, quartered in the Kings Court at West minster, and about Charing Crosse, and the Muse; of which (a) Grafton, and other Hittorians write That they fell into fo great pride of the Kings favour, that they accounted the King to be as their fellow, and thep let the Lozds at nought; yet few or none of them were Genilemen, but taken from the plough, and Cart, and other Crafts And after thefe rustical people had a while courted, they entred into so great a boldness, that they would not let, neither within nor without the Court, to beat and flay the Kings good Subjects; to take from them their victuals, and pay for them little or nothing, at their pleasure (as our free-quar erers do now) falling at last to ravish mens wives and daughters: And if any man fortuned to complain of them it

the King, he was foon rid out of the way no man knew how, or

(f) Mar. Paris, An. 1255 p. 884, 885. Daniel. p. (t) Mr. Sr

concerning

1 H. 4. D. 21. 22, 25, 30.

(u) Chron. P. thus. 389, 390,

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o by whom, fo as they did what they listed; the King not caring to doe justice upon them; but favouring them in their mif-doings, confiding in them and their guards against any others of the kingdom, which gave the Lieges of his kingdom oreas matter of commotion and discontent. The bringing up of which guard to Westminster, to force, and overawe the Parliament to effect his designs, is one principle Article exhibited against him by the Parliament, of 1 H. 4. wherein he was forced to resign his Crown, and then deposed. I pray God our new armed Guard and Coursiers at Whitehall and the Muse of as mean condition as those) fall not by degrees to the felf-same exorbitances, contempt of the King, Lo ds. Parliament, and oppression of the people, to their general mutining and discontent. In the Parliaments of 6 E. 3. N. 1. & Parl. 2, N. 5. 6, 8 9, 8 E. 3. N. 5. 15 E. 3. N. 4. 17 E. 3. N. 2. 20 E. 3. N. 5. 21 E. 3. N. 4. 22 E. 3. N. 1. 25 E. 3. N. 1. 29 E. 3. N. 4. 30 E. 3. N. 1. 37 E. 3. N. 1. 42 E. 3. N. 1. 50 E. 3. N. 1. 51 E. 3. N. 3. 1 R. 2. N. 1. 2 R. 2. N. 1. 3 R. 2. N. 1. 4 R. 2. N. 1. 5 R. 2. N. 65. 6 R. 2. N. 6. 7 R. 2. N. 1. 9 R. 2. N. 1. 8 H. 4. N. 54. We find in these Parliament Rolls, that these Parliaments have been usualy prorogued, adjourned from the days they were summoned to meet, and have not sate, nor acted at all because sundry of the Lords & some Commons were not come, but ablent by reason of foul weather, shorines of warning, or other publique imployments: all their personal presence in Parliament being reputed necessary and expedient. And 20 R. 2. N. 8. The Commons themselves in Parliament required the King , to send for such Bishops and Lords who were absent, to come to the Parliament, before they would confuit upon what the Chancellor propounded to them in the Kings name and behalf to confider of. To recite no more antient prefidents: In the Parliament of a Caroli, the Earl of Arundel not litting in the Parliament, being after his summons committed by the King to the Tower of London, about his Sons mariage, May 25. 1526 without the Lords privity and consent whereby their privileges were infringed, and the House deprived of one of their Members

Members presence; thereupon the House of Peers made this memorable Petition and Remonstrance of their Privileges to the King.

The humble Remonstrance and Petition of the Peers.

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Ay it please your Majestie, we the Peers of this Realm, now affembled in Parliament, finding the Ert of Arundel absent from his place amongst us, his mefence was therefore called for: Bur thereupon a meitage was delivered us from your Majestie, by the Lord Keeper, That the Earl of Arundel was restrained for a misdemeanor which was personal to your Majesty, and lay in the proper knowledge of your Majelty, and had no relation to matter of Parliament. This Message occasioned us to inquire into the Acts of our Ancestors, and what in like cases they had done, that so we might not erre in a durifull refpect to your Majesty, and yet preferbe our right and vatbileges of Parliament. And after diligent fearch made, both of all Stories, Statutes, and Records that might inform us in this cale. we find it to be an unboubts ed Right, and conftant Privilege of Parliament; That no Lord of Parliament, hetingin Parliament, or within the usual time of Privilege of Parliament, to to be imprisoned or restrained (without fentence or order of the House) unientefit be for Treason or Felony, or for refusing to give furety for the Peace : And to fatisfie our felves the better, we have heard all that could be aleged by your Majesties learned Counsel at Law, that might any way infringe or weaken this claim of the Peers; and to all that can be shewed or alleged so full farisfaction hath been given, as that all the Beers in Parliament, upon the question made of this Privilege, have una boce confented, that this is the unboubted right of the Peers, and hath been inviolably enjoyed by them.

Wherefore we your Majesties loyal Subjects, and hum-

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humble Scrvants, the tohole body of the Peers in Parliament attembled, most number beteech your Majesty, that the Earl of Arundel, a Member of this Body, may presently be admitted, by your gracious tavour, to come sit and serve your Majesty and the Commonwealth in the great affairs of this Parliament, And we shall pray, &cc.

Upon which Remonstrance and Petition, the King refufing to inlarge him, thereupon the Lords to maintain their Privilege, adjourned themselves on the 25 and 26 of May, without doing any thing; and upon the Kings refulal to release him, they adjourned from May 26, till June 2. refusing to sit, and so the Parliament dissolved in discontent: his imprisonment in this case being a breach of privilege, contrary to Magna Charta. In this very Parliament the Lord Digby Earl of Bristol being omitted out of the summons of Parliament, upon complaint to the Lords House was by order admitted to fit therein, as his Birthright, from which he might not be debarred for want of Summone, which ought to have been fent unto him , er bebito Infitta , as Sir Edward Cook in his 4 Inditutes , p. 1. The Act for ttriennial Parliaments, and King Johns great Charter resolve. long after the beginning of this Parliament, upon the Kings acculation and impeachment of the Lord Kimbolton and the five Members of the Commons House, both . An Exact Honses adjourned, and sate not as Houses, till they had Collection, received facisfaction and reflicution of thole Members, as part. 1. p. 36. the fournals of both Houses manifest, it being an high to 56. breach of their Privileges, contrary to the Great Charter. If then the Kings bare not summoning of some Peers to Parliament, who ought to fit there by their right of Perage; or impeaching, or imprisoning any Peer unjuitly, to disable them to fit personally in Parl. be a breach of Privilege of the fundamental Laws of the Realm, and Magna Charta it felf, (confirmed in above 40 successive Parlia-

ments

ments) then the Lords right to lit, vote, and judge in Parliament is as firm and indisputable as Magna Charta can make ir, and consented to, confirmed by all the Commons, people, and Parliaments of England, that ever confented to Magna Charta, though they be not eligible, every Parliament by the Freeholders, people, as Krights and Burgesses ought to be: and to deny this birthright and privilege of theirs, is to deny Magna Charta it self, and this present Parliaments Declarations, proceedings in the case of the Lord Kimbolion, a Member of the House of Peers.

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Fifthly, The Treatise (intituled . The manner of kolding * See Cook 4 Parliaments in England in Edward the Confesiors time (befose the Conquest) rehearfed (afterwards) before Willi-Inftit, p.11. for the Antiam the Conquerour, by the discreet men of the Kingdom, the Authority and by himfelf approved and used in his time, and in the times quity & for of his successors Kings of England; (if the Title be true, and of this treatile, which in the Treatile to antient as Sir Edward Cook, & others now truth is meer-take it to be) When as its mention of the (1) Bishop of ly spurious, Carlifles usual place in Parliaments; (which Bishoprick Sce Seldens ritles of Ho- was not founded till the year of our Lord 11; 2. or 1134. nour, p. 613.25 (2) Matthew Paris, Mauhem Westminster, Roger Hove-738. to 743. den, (3) Godwin and others attelt in the later end of Henry (1) An. 1132 the first his reign:) Its men ion of the Mayors of London & (2) An. 1134 other Cities, and Writs usually directed to them to elect two (3) His Cata- Citizens to ferve in Parliament; whereas London it felf had logue of Bi-(4) no Major before the year 1208. (being the 9. year of shops of Car-King John) nor other Ciries Mayors til divers years after; lifte. (4) Graftons nor can any Writs for electing Knights of Shires, Citizens or & Stows Ca- Burgeffes to ferve in Parliament, which it oft times writes of, be produced before 49 H. 3. nor any Writs to levy their relogues of the Maiors of expences or wages for their Service in Parliaments, which London. it recites, be produced before the reign of King Edward the 1. Nor was the name of Parliament, which it mentions and writes of, fo much as used by any Author before the later end of King Henry the 3. his reign, after whose reign this Modus was certainly compiled, towards the end of K. Richard the 2. or after, as other passages in it evidence beyond: ar-

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yond all contradiction) This magnified Treatile, be it genuine or spurious, determines thus of the Kings and Lirds rights to be personally present in all Parliaments. " The King to bound by all means possible to be present at othe Darliament, unless he be detained or iet tuere from o by bodilp fickness; and then he may keep his Chamber, e years that he live not without the Manour of Town d inhere the Parliament is held: and then he ought to " fend for tweive perions, of the greatest and best of them that are summoned to the Parliament; that is, two " Bishops, two EARLS, two BARONS, two Knights of the Shire, two Burgeffes, and two Citizens to look up-" on his person to testifie and witness his estate; and in "their presence he ought to make a Commission and give "Authority to the Archbishop of the Place, the Steward of England, and Chief Justice, that they joyntly and fe-" verally should begin the Parliament, and continue the c. fame in his name, express mention being made in that Commission of the canse of his absence thence; which cought to suffice and admonish the OTHER NOBLES, " and chief men in the Parliament, ogether with the evident restimonie of the twelve Peers, &c. " fon is, Because there was wont to be a cry or murmur "in the Parliament for the Kings absence, because his " absence is burtfull and dangerous to the whole Com-"monalty of the Parliament and Kingdom. "indee" ought or map be be ablent, but only in the case " afozefato. After which it follows, " The Archbishops, 6: Bishops, and other chief of the Clergy ought to be sum-"moned to come to the Parliament; and also EVERY "EARL and BARON, and their PEERS OUGHT TO "BE SUMMONED and COME TO THE PARLIA. "MENT, &c. Touching the beginning of the Parliament, "The Lord the King, shall fit in the midit of the great " bench, and is bound to be prefent in the first and last day " of Parliament. And the Chancellort, Treasurer, and "Barons of the Exchequer, and Juffices were wont to re-"cord the defaults made in Parliament according to the E 2 order

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" order following. In the third day of the Paritament, the "Barons of the Cinqueports shall be called, and after-" wards the BARONS of England, after them the EARLS; " Whereupon if the Barons of the Cinqueports be not " come, the Baronie from whence they are shall be amerced at an hundred marks; and an Earl at one hundred " pounds: After the same manner it must be done to those "who are Peers to Earls and Barons. After which it re-"lates the manner of placing the Earls, Barons and Peers " in Parliament; Then adds, The Parliament may be held, and OUGHT every day to begin at one of the clock in "the afternoon: at which time the Bing is to be prefent "at the Parliament, and all the Pers of the Kingdome. "None or all the Peers of the Parliament may or ought to "bepart alone from the Parliament, unleis he have obtai-" ned (and that in full Parliament) leave from the Bing "and all his Dors to to doe; and that withall there be a " remembrance kept in the Parliament roll of such Leave "and Liberrie granted. And if any of the Peers during "the term of the Parliament shall be fick or weak', so as he is not able to come to the Parliament, then he ought "three dayes together fend such as may excuse him to the · Parliament, or else two Peers must go and view him: "and if they find him fick, then he may make a Provie. " Of the Parliament, the King is the Head, the beginning "and ending. So this Treatife. The Statute of 5 R. 2. Parl. 2. ch.4. enachs by Command of the King, and Allent of the Prelates, Loads and Commons in Parliament; That all and singular persons and Commonalties, which from henceforth shall have the Summons of the Parliament, shall come from henceforth to the Parliament in the manner, as thep be bound to doe, and hath been accustomes within the Realm of England of old time. And every person of the said Realm which from henceforth (hall have the (aid Summons (be he Archbishop, Bishop, Abbot, Prior, Duke, Lozo, Baron, Baronet, Knight of the Shire, Citizen of City, Burgess of Burgh, or other singular person or Commonalty) do absent himself, or some not at the faid Summons, (except he may reasonably or bonestly

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nestly excuse himself to our Sovernian Lord the Iting) be thall be amerced and other wayes punished according as of old time bath ben uled to be done, within the faid Realm in the lato cale. Which relates in to and agrees expresly with that torecited out of Modustenendi Parliamentum, (which took it out of this Act.) It then all the Lords, Peers in Parliament are bound to attend in Parliament, being oft times there all called for by name, and ought not to depart from it without the Kings and Houses leave, under pain of Amercement and other punishment as this Statute resolves, and 3 Ed. 3.19. Fitzh. Coron. 161. Stamford, I. 3. c. 1. f. 153. Cook 4 Instit. p. 15, 16, 17. 43. 28 E.3. Nu. 1, 2. 5 R. 2. n. 2. 8 H. 4. n. 55. and 31 H. 6. n. 45. (Where fines were imposed on absent Lords) most fully manifelt; then questionless they ought of right to fit in Parliament, elle it were the height of Injustice thus to fine them. In the tenth year of King * R. 2. this King ab-Sented himself from his Parliament then sitting at Westmin- * Grascons fter, refi ling at Eliham about forty daies, and refusing to chroh. p. 348; come to the Parliament, and yet demanding from them four 350. Fifteens for maintenance of his Estate and outward warres: Whereupon the whole body of the Parliament made this answer; That unless the King were present they would make therein no allowance. Soon after they fent the Duke of Glocetter and Bishop of Ely, Commissioners to the King to Eltham, who declared to him among other thines in the Lords and Commons behalf; how that by an old Dedinance they have an * That in the At, if the King absent himself 40 dayes not being fick, but of Modus Tebis own mind, (not heeding the charge of his people, nor their nendi Parl great pains) and will not refort to the Parliament, they may ben Kings ablawfully return to their Houses. And now fir (faid they fence from you have been absent a longer time, and yet resuse to come a- the Parliamong st us, which is greatly to our discontent. To which the ment, was King answered; Well, we do consider, that our own people and this passage;

rather to submit us to him, than unto our own subjects. Lords answered, Sir, that Counfell is not best, but a way ra-

Commons go about to rife against us, wherefore we think we can therefore write do no better, than to ask aid of our Cosen the French King, and after.

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ther to bring you into dinger, &c. By whose good perswasions the King was appeased, and promised to come to the Parliament, and condiscend to their Petitions: and according to his appointment he came, and so the Parliament proceeded, which else had dissolved by the Lords departure thence in discontent,

a d the Kings wilfull absence.

Ranulf de Glanvil the first writer of our Common Laws, in his Prologue to his book De legibus & confuetuainibus Regni Anglia, (u'ed in the reign of King H.the 2. under whom he flourished, and his Predecessors) writes thus of the Parliamentary Councils in that age, and their Members power to enact Laws. Leges Anglicanas, licet non scriptas leges appellari non videtur absurdum, cum hoc ipsum Lex sit , quod Principi placet, et legis habet vigorem : eas scilicet quas super dubiis in Confilio Definiendis, Procerum quidem Concilio et principis accidente authoritate constat este promulgatas, And lib. 13. cap. 32. f. 110. Cum quis itaque infra assisam Dom. Reg.id est, infra tempus, A Dom. Rege de confilio Procerum, adhoc constitutum, quod quandoque majus quandoq; minus censetur. So as the Parliaments under this King and his Ancestors, consisted only of the King and Nobles, who then made and enacted Laws by the Kings royal affent, without any Knights, Citizens, or Burgesses elected by the people, of which I

(b) Mat. Paris find no mention in the Parliamentary Councils under this p. 96,67. Mar. King, who as some erroniously affert, first summoned Westm. an. Knights Citizens and Proceedings Knights, Citizens and Burgesses to our Parliaments. In the 1164 Hoved. Parliamentary Councel at Clarindon, under King H. the 2. An. poster. p. 499. 1164. Jo. de Oxonia, by the Kings command there present) Chron. Ger-sate President, Presemibus ctiam Archiep scopis, Episcopis, Valii col. 1385, Abbatibus, Prioribus, Comitibus, Baronibus, et Proceribus Figles Rrie regni, wherein they made a Recognition of the customs Eccles. Brit. P. 122. Radulf, and liberties of his Grandfather King Henry the 1. and ode Dicero I- ther his Ancestors, which ought to be observed by all magines, Hift, persons within the Realm, by reason of the discords ofcol. 536. Fabi- ten happening between the Clergy and temporal Judices, an, Holinshed, and great men of the Realm. These they reduced to 16 Speed, Daniel, Articles, very much ecclipfing the Popes and Bishops ecclefiaflical

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clehastical Jurisdiction. This (c) Recognition the Arch (c) Chronica hilhips, B (haps, Abbots , Priors , Ciergy , cum Comitibus Gervalii, col. Proceribus et Baronibus cundis una voce , nemly pro- 1433. miled in the word of truth, bona pide, to observe and keep to the King and his heirs for ever, without male engin. The 11 of the'e Arricles runs thus. Archiepiscopi et Episcopi ficut cateri Bazones bebent intereste Judiciis Curia (to wit of Parliam. nt) cum Barontbus, quonfque perveniatur in judicio ad a minutione membrorum, vel ad mortem. Which proves the judicial power of Parliaments to be then only in the Lords and Barons. In the year 1170. (the 16 of Henry 2,) on the Feath of St. Bernard, Rex magnum celebzabit Concilium Londoniis cum Pzincivibus et Pagnatibus curia [na, de coronagine Henrici filis (ni: 50 (a) Hoveden, Anno 1172. Rex Anglia Henri (d) Annal. cus convocatis regul Palmozibus apud Northampioniam Pais posterior, renover unt Affism (larindonis, eamque pracepit bfervari. (c) Roger de In the year 1175. King Henry the fecond and his ton he'd Hoveden Ana great Council at York, where the agreement between nal, pars post; him and the King of Scors (there pr. fent, with most of P. 544. his Bishops, Abbots and Nobles) was read and confirmed b. fore the King and his Son, the Arehhishop of York, the Bishop of Durham , & Comitibus & Baronibus Anglia. The (f fime year Rex magnum congregabit con- (f) Hoveden effum pud Win lefhores in oft avis Sancti Michaelis per Ecclefias Brir, fentibus & Rege filio Richard Cant, Archiepiscopo & p. 94, 95. Opticopts Anglia, & Laurent o Dublivente Archiepiscopo. Daxfentibus ei m Comitibus et Baronibus Anglia, In which some controvernes in Ireland were celci-

In the year (g) 1176. King Henry coming to No ingham (g) Hoveden on the feast of Sr. Pauls conversion, ibi celebravii Magnum Annal. pars Concilium de statute regni sui, et coram rege silio suo Arz post. p. 548. I thiepiscopis, Episcopis, Comitibus et Baronibus Regni sui, Communi omnium Concilio divisit regnum suum in sex partes, per quarum singu ai tres Justiciarios itinerantes constituit; whose names, Commissions, and Articles are there at large recorded. And the same year this King held another.

Statim 'anud Gainington congregavit Magnum Conci-

linm Cpifcopozum, Abbatum, Comitum et Baronum,et

alfozum multozum tam Clericozum quam Lafcozum,

(but that thele were Knights, Citizens and Butgelies ele-

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Red by the people, and not persons particularly summoned and nominated by the King himfelf to be Affelfors & Collectors of the Tenths, there to receive their infructions for it, which is most probable, cannot be thence inferred) ubi in publica audientia recitari fecit omnia supradicta capitula que constituerat de Cruce capienda: et tunc Dominus Rex misit servientes suos, Clericos & Laicos, per singulos Comitatus Anglia ad Decim as colligendas (moit likely the aliorum muliorum tam Clericorum quam Laicorum, present at this great Council) fecundum predictam Dedinationem in terris fuis transmarinis constitutam, to wir, at Cenomanum, ubi confilio suozum, (to wit, of the Archbishops, Bishops, Earls and Barons there with him) ordinavit, quod unusquisque decimam redditorum et mobilium suorum in eleemosinam dabit ad subventionem terra Jerosolymitana hoc anno (exceptis armis & equis, & vestibus militum, &c.) Sed de singulis urbibus totius Anglia, fecit elegi omnes ditiores, videlicet, de Londonio 200, & de Eboraco 100, & de aliis Urbibus secundum quantitatem & numerum corum : & fecit omnes sibi prasentari diebus & locis statutis, de quibus capit Decimam mobilium suorum secundum astimationem virorum fidelium, qui noverant redditus et mobilia eorum : Si quos autem invenisset rebelles, statim fecit eos in carcerari et in vinculis teneri, donec ultimum quadrantem persolverent: similiter fecit de Judais terra sua, unde inastimabilem sibi acquisivit pecuniam.

Andrew Horn in his * Mirronr of Justices, in the reign * Ch. 1. Sect, of King Edward the first, writes, "That our Saxon Kings 2. P. 8, 9.

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"divided the Realm of England, after it was turned into an heritage, into 38 Counties, over which they fet to many Counts or Earls: and although the King ought to have no Peers in his land, yet for that if the King should do wrong to, or offend any of his people, neither he nor any of his Commissaries ought to be both Judge and Party, it behoveth of Right, that the King should have COMPANIONS, for to hear and determine IN PAR-LIAMENTS, all Writs and Plaints of the Wrongs of the King, of the Queen, and of their Children, and of

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"thole elpecially, who otherwise could not have common "right concerning their wrongs. These Companions are * Ch.3. Sca. .. . now called Counts, after the Latine word Comites. *For the good Effate of the Realm King Affred affembled the " COUNTS or Earls, and ordained by a Perperual Law, " that twice a year or oftner, they should assemble at Lon-" don in Parliament, to confult of the Government of the " people of God, &c. By which Estate or Parliament ma-"ny Laws and Ordinances were made; which be there " recites. Bratton 1.1 .c. 8. 1. 2. c. 16. 1.3.c. 9. in Henry the 3d. his reign, and Flera, 1. 2. c. 2. p. 66. write thue in Edm. the first his reign in the same words. Habet enim Rex curia fuam in concilio suo in Parliamentis suis, PRÆSENTIBUS *But no Com-Pralatis, * COMITIBUS, BARONIBUS, PROCERI. mons, of BUS, & alies viris peritis: ubi terminata sunt dubitaziones which he judiciorum, & novis injuriis emerfis, nova constituuntur respeaks not a word; they media. And l. 17.c. 17. he writes thus, Rex in populo having then regendo superiores habet, Videlicet, Legem per quam est Rex; no being or place in them. & Curiam fuam, (to wir, of Parliament) videlicet, COMI. TES & BARONES. Comites enim à Comitia dicumtur, qui cum viderint Regem sine frano, Franum sibi apponere TE-NENTUR, ne clament subditi: Domine Jesu Christe in Chamo & frono maxillas corum constringe. Sit Tho. Smith in his Commonwealth of England, 1. 2. c. 1. John Vowel, and Ralph Holinshed, vol. 1. c. 6. p. 173. Mr. Cambden in his Britannia, p. 177. John Minshaw in his Dictionary, Cowel in his Interpreter Title Partiament; Powel in his Attorneys M. St. Johns Accademy, and others, unanimously conclude. Argument at "Parliament confiseth of the KING, the LORDS SPi-"RITUAL and TEMPORAL, and the Commons; which der. Daltons "STATES represent the body of all England; which make

> "hath the most high and absolute power of the Realm: " And that no Parliament is or can be holden without the

> "King and Lords. Mr. Crompton in his Jurisdiction of Courts, affirms, particularly of the High Court of Parliament

> f. 1. &c. " This Court is the highest Court of England, in

Law at Straffords attain-Office of "but one Assembly or Court, called the Parliament, and Sheriffs, "is of all other the Highest and greatest Authority, and mon

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"which the King himfelf hts in person, and comes there "at the beginning and end of the Parliament, and at any "other time when he pleafeth, ogbering the Parliament. "To this Court come all the Lozos of Parliament, as "well Spiritual as temporal, and are leverally immoned "by the Kings writ at a certain day and place affigned; "The Chancellor of England and other great Officers or ci Judges are there likewile prefent; together with the "Knights, Citizens and Burgesles; who all ought to be " reisonally present, or else to be amerced, and otherwise " punished, if they come not being summoned, unles good a cause be shewed, or in case they depart without the . Houses or Kings special license, after their appearance . before the Selfions ended: And he refolves, That the "King, Lords and Commons, doe all joyntly make up the "Parliament; and that no Law nor Act of Parliament can "be'made to bind the subject, without all their concurer rent affents.

Sir Edward Cook not only in his Epiftle before his ninth Report and Institutes on Littleton, p. 109, 110. But likewile in his 4. Institutes, (published by Order of the Commons themselves this present Parliament, c. 1.p. 1, 2. Oc.) writes thus of the high and Honourable Court of Parliament. "This Court confisteth OF THE KINGS MAJESTIE, "fitting there, as in his royal politick capacity; and of the "three Estares of the Realm, viz. Of the Lords Spiritual, "Archbishops and Bishops, being in number 24. who sic "there in respect of their Counties or Baronies, parcel of "their Bishopricks, which they hold also in their politick. "capacity; and every one of these when the Parliament " is to be holden, ought ex debito fustitie, to have a writ "of fummons. The LORDS TEMPORAL, Dukes,

"Marquesses, Earls, Viscounts and Barons, who sit there * Therefore "by reason of their dignities which they hold by descent their exclusion "or creation: And likewife EVERY ONE OF THESE on thence, is " being of full age, OUGHT TO HAVE a writ of fum Ex Abyllo Ne. "mons * EX DEBITO JUSTITIE. The third Estate the abyse of "are the Commons of the Realm, whereof there be Injustice and

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"Knights of Shires or Counties, Citizens of Cities, and " Burgesses of Boroughs. All which are respectively ele-" Red by the Shires or Counties, Cities and Boroughs by "force of the Kings writ, ex debito Justicie; and none of "them ought to be omitted: and these represent all the "Commons of the whole Realm, and trutted for them, and " are in number at this time 403. He adds, And it is ob-" ferved, that when there is belt appearance, there is the webest successe in Parliament. At the Parliament holden "in the 7. year of H.5. holden before the Duke of Bedford " Guardian of England, of the Lords Spiritual and Tempo. ral there appeared but 30. in all: at which Parliament " there was but one Act of Parliament passed, and that of "no great weight. In An. 50 E. 3. all the Loads appear red in perfon, and not one by Proxy: at which Paria-" ment, as appeareth by the Parliament Roll, so many ex-"cellent things were sped and done, that it was called " Bonum Parliamentum. And the King and these three e-" states are the great Corporation or body of the kingdom "and doe fit in two Houses; and of this Court of Parlia-" ment, the King is Caput, Principium, & Finis. . The Parl. "cannot begin but by the Royal presence of the King ei-"ther in person or representation, by a Gardian of England " or Commissioners, both of them appointed under the " great Seal of England, &c. And 42 E.3. Rot. Parl. num. 6.7. It is declared by the Lords and Commons in full " Parliament, upon demand made of them, on the behalf " of the King; That they * could not affent to any thing in "Parliament, that tended to the difinherison of the King "and his Crown whereunto they were fworn. And p. 35. he hath this special observation; "That it is observed by "antient Parliament men out of Records, that Parlia-" ments have not succeeded well in five cases. First, when "the King hath been in difference with his Lords & with "his Commons. Secondly, When any of the great Lords "were at variance between themselves. Thirdly, When "there was no good correspondence between the Lords "and Commons, Fourthly, When there was no unity be-IMCCI

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tween the Commons themselves (in all which our present Parliament is now most unhappy; and so like to miscarry and succeed very ill) Fifth y, When there was no preparation for the Parliament before it began : every of which he ma-

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From all these and fundry () other Authorities , it is () Judge most evident and transparent; That both the King him. Huttons Arfelf and Lords, ought of right, duty to be personally present Hampdens in Parl. and ever have been so, as well as the Commons, case, p.32,33. and neither of them to be excluded, fince they all make Daltons of. up but one Parliament, that no Lords, Commons ought to fice of Sherifs. depart from it without special leave, under pain of americe- Argument ac ment, and other penalties, That no binding Law can be Law at Strafpassed without their joynt consents. And that the Commons fords Attainalone are no more a Parliament of themselves without der, publishthe King and Lords, than the Common Councel of London Commons are an intireCity or Corporation without the L. Mayor, and special Or-Aldermen, or the Covent without the Abbot, the Chapter der, in which without the Dean, or the legs or belly a perfect man with he at large afout the head, neck, and heart.

ferts The Kings and Lords un-

doubted right to fir and judge in Parliament, and that it is high Treafon to exclude them by force of Arms,

Sixthly, The antient and constant form of endorsing * 33 H.6.17. Bills in Parliament, began in the Commons houle, in all Brooke Parli-Parliaments fince the House of Commons, unanswerably Cromptons demonstrates the Commons of Englands acknowledge Jurisdiction ment of the Lords right, to fir, vore. affent, or dif-affent of Courts, f. 8. to Bills in Parliament , viz. Soft Baple a Sefgneurs: Mr. Hackwel let it be delivered, or fint up to the Lords. Yea, the Com- of the manner of paffing Blls mons conft ant fending up of their own Members, with Meffa- in Parliament. ges to the Lords; their receiving Mellages from them, and entertaining frequent conferences with them in matters wherein their opinions differ; in which conferences the Lords usually adhere to their diffents, unlesse the Commons give them satisfaction and convince them, and the Lords of times convince the Commons, fo far as to con-

tent to their alterations of Bills, Ordinances, Votes, and to lay them quite afide, is an unquestionable argument of their Right to fit and vote in Parliament; and of their Negative voice too: All which would prove but a meer ablurdity, superfluity, if the Commons in all ages, and now too, were not convinced, that the Lords had as good right to fit and vote in Parliament, and a Negative diffenting voice, as well as they; never once questioned nor doubted till within this year or two, by some seditious disciples of Lilburns and Oversons tutoring, who endea-

voured to evade their juffice on them.

Seventhly, This just right of the Lords is expresly and notably confirmed by all the Commons of England, in the Parliament of 31 H. 8.c. 10. concerning the placing and fitting of the Lords and great Officers of State in the Paris ament House, made by the Commons confent : it being in vain to make fuch a Law (continuing still till this very day both in force and use) if they had no lawfull right to fit and vote in Parliament, because they are not eledive, as Knights and Burgelles are. And likewise by the Statute of 39 H. 6.c. 1. made at the Commons own Petition, to repeal the Parliament held at Coventry the year before; and all procedings of it, by practice of some seditions persons; of purpose to destroy some of the great Nobles , faithfull and law will Lords and Estates, meerly out of malice, and greedy and unsatiable coverousness to possesse themselves of their Lands, pos-(essions, offices and goods, whereby many great injuries, Enormities and Inconveniences, well nigh to the ruine, decay, and nniversal subversion of the king dom ensued. The very design of our Lilburnists, Sectaries, and Levellers now, out of particular malice and coverousness, to share the Lords and all rich Commoners lands and estates between them; being poor indigent covetous people for the most part, scarce forty of them worth one groat, at least before these times and wars.

Sly. This apparent Right of theirs, is undeniably ratified; acknowledged by the very words of the Kings writs in all ages, by which the Lords themselves are summoned to

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Carolus, &c. Charissimo consaguineo suo Edwardo Com. * Clause 49 1 Oxon. Salutem: Quia de advisamento & consensu constili H. 3.m.10. nostri pro quibus dam arduis et urgentibus negotiis, Nos, staduis, Cropptum et desenso, em Regni nostri Anglia, & Ecclesia Angli tons juris dicana concernentibus, quoddam Parliamentum nostrum upud etion of Civitatem nostram Westmonaucerium, 12 die Novemb. Courts, st. 1. prox. suturo tenere ordinavimus, et ibidem bobiscum, cum Pralatis, Pagnatibus et Proceribus dicti regni nostri colloqui, m havere, ettrastare; Vobis sub side & ligeantiis quibus nobis teneamur sirmiter injungendo, Mandamus, quod considerasis dictorum negotiorum arduitate, & periculis mirentibus, cessante excusatione quacunque, dictis die et loco persionaliter intersitiis Nobiscum, at cum Pralatis, Pagnatis bus, Proceribus pravidis, super dictis negotius tractaturus,

beltrumque consilium impensurus, scut Nos et honorem nofirum, ac salvationem et defensionem Regni et Ecclesia pradistorum, expeditionemque distorum negotiorum diligitis,

nullatenus omittatis, Teste, &c.

Which writs firmly require and command their personal presence, counsel and advise in all Parliaments, without any excuse, and that by the faith and allegiance which they owe to the King, and as they doe tender the King and his honour, the salvation and defence of the Realm and Church of England, and the dispatch of the arduous and urgent businesses which concern them. Which is likewise seconded, expressed in the very words of all the writs for election of Knights and Burgesses, the form and substance whereof are antient, and can recive no alternati-

on no2 addition but by Alt of Parliament, as (b) Sir Ed. (b) Instit. 4. ward Cook resolves. By this Writ, the Prelates, Great men, P. 10. Nobles of the Realm are summoned to the Parliament, there only end, and to treat and confer with the King, of the arduous and urgent trust, & none

Writ and its retorn attest; not to imprison, destroy the King, Realm, Church, and Parliament of England it self, and those very Cities, Burroughs which elected them, under pretext of a new Government, and more equal representa-

tive, the very Jefuits plor, and Levellers defign.

affairs and aefence of the King, Realm, and Church of Eng-* Clause & E. land , as the first Clause of the writ , * Carolus, &c. quia , 3. m. 41. 32. &c. pro quibusdam arduis et urgentibus negotiis ; Nos Statum 27. 19 doil. 5. O defensionem Regni nostri Anglia, & Ecclesia Anglica-E. 3. part 1. ne concernent: quoddam Parliamentum nostrum &c. teneri or-3. Dorf. clauf. dinavimus ; & ibidem cum Prelatie. Magnatibus & 1020. part 2. m. 36. certbus ditti Regni noftri colloquium e baberet tractare, 4. Cromptons Tibi pracipimus, And the Commons are lummoned, to Jurisdiction perform and confent to those things which shall there happen to

+ See the Freeholders grand my Historical Collection , where this is largely pro-

of Courts, f. I. be ordained by this Common Council of the Kindom, &c. And if they are thus summ oned, not to treat amongst themselves as an independent, intire Parliament; but to confirm and confent to what the King, Prelater, Great men, and Peers (the † Common Council of the Realm) shall ordain about such affairs; as they must of necessity admit the King, Lords and Peers to be altogether as effential Inquest, and (yea more principal eminent) Members of Parliament, though not elective as the Knights and Burgesses, who are but summoned to consent to and perform what shall happen there by their common advise to be ordained; or at least to consult and advise with them, as their inferiours, not to over-rule them, as their superiours, and the only Supream power, authority in the Kingdom. So if they will totally exclude either King or Lords from the Parliament (who are diffinet, principal and essential Members of it as well as the Commons, and have always been fo reputed until now) the Commons may fit alone as Cyphers, but not as a Parliament or Council, to vote, impose, or ast any thing that is binding to the people; fince regularly they neither are , nor ever yet were in any age no more a Parliament in any case without the King and Lords, then the King and Lords alone are now a Parliament (though antiently they were so of themselves) without the Commons, or the trunk of a man, a perfect man without head or shoulders. If 3, be joyntly impowred or commissioned to do any act by Com-

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. T3. fion, mission, Deed, or Warrant, any one or two of them can doe nothing without the third. If many be in Commission of th Peace, ewer, or the like, &three of the Quorum joyatly, to act therein joyntly, if any one of the three be abient or dead, all the rest can doe nothing, because their authority is joynt, not fingle. In Parliament it felf, if either house appoint a Committee of 3, 5,or 7, to examine, act, or execute any thing: if but one of this number be absent, of put out, the rest can doe nothing that is legal or valid, even by course of Parliament; neither can either House six and vote as a House, unlesse there be so many Members prefent, as by the Law and custom of Parliament will make up an House, as every mans experience can inform him. If thele Levellers then will abioli tely cut off or exclude the King or Lords from the Parliament, they absolutely null and dissolve it : and the Act for continuing this Parliament cannot make nor continue the Commons alone together as a Parliament, no more see my le-than the Lords or King alone without the Commons; the tion against King or either house alone being no Parliament, but illegal Taxes, both conjoyned and enlivened with the Kings perional or P. 3. 4. 44. to representative presence. The cutting off the head alone St. And this or of the head an I shoulders, altogether destroys and kills felf expresly the body Politick and Parliament, as well as the body na- afferts in part If the King dies, or refigns his Crown, or be de- in his Letter posed, the Parliament thereby is actually dissolved, as it or Epistle to Warre Lved in the Parls of 1 H. 4 n, 1, 2, 3. 1 H. 5.n. 26. Mr. Lenchal 4 E.4. 44. and Cooks 4 Institutes, p. 46. The latt Parlia June 8. 1658. ment of 21 Jac. diffolved by his death, So if the Lords or p. 34. 29, to Commons dissolve and leave their House, without any 59. adjournment, or if the King by his Writ dismisse, or disfolve either of the Houses, the Parliament is thereby diffolved, as the forecited Prefident s, and the latter clause of the writfor the election of Knights and Burgesses manifests. And a new kind of Parliament confilting only of Commoners, when the old one (only within the Act for continuing this Parliament made up both of King, Lords, and Commons) is distolved; neither will (nor can be supported

ted or warranted by the Letter or intention of this Law,

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or any other Law, custom, or right what soever.

Ninthly, All the Petitions of the Commons in all antient & modern Parliaments to the King, & Peers, for their redrette of grievances, recorded in our antient Parliamentary Rolls. The utual Prologue to most of our antient printed Statutes, in the Statutes at large, & in Poulton, The King at the request of the Common gof,or by the affent of the Welates, Dukes, Carls, Barons, and other great men there allembled , bath ordained thefe things (or Atts) underwritten: all Acts of Parliament now extant, ufually

ftir, c. I,

" Cook 4. In- running in this form; " The King with the affent of the Lords Spiritual and Temporal in Parliament hath ordained; And be it enalted by the Kings most excellent Majesty, the Lords Spiritual and Temporal in this present Parliament assembled. The famous Petition of Right , 3 Car. fo much infifted on , beginning thus. Humbly shew unto our Soveraign Lord the King, the Lords Spiritual and Temporal, and Commons in Parliament affembled, thus answered by the King; Let right be done as is defired. The Act for continuing this Parliament, made by the King and Lords, as well as by the Commons, (who never intended to exclude themselves out of this Parliament by that A&, or that it should continue if either of them were quite dismembred from it) with all Acts and Ordinances fince. Yea the very Protestation, and Solemn League and Covenant, taken by the Commons, Lords and prescribed by them to all others throughout the three kingdoms, which couple the Lords and Commons always together (neither of them alone being able to make any binding Alt nor Ordinance to the Subjects, " un-* See my Ire- leffe they both concurr, and have the Kings royal affent

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narch, redivi- thereto no more than one Member alone of the Honfe can make a Howfe) and ranck the Lords always before the Commons, and the King before them both; fo firmly hold forth, establish the Lords and Kings undoubted Rights to fit and Vote in Parliament, and decry this new invented Monopoly of a sole Parliament of Commons, without King or Lords, and that absolute Sovereign Power these

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Lilburnists, new Lights have spied out and set up for them in Utopia; that impudency it felf would blush to vent such mad, a blurd, irrational Frenzies and Paradoxes as these crack brain'd persons dare to publish; and they may with as much truth and reason argue, that one man is three; that the Leggs and trunk of a man are a perfect man, without head, neck, arms, and shoulders; or that the Leggs, Ribs, Bowels of the Body are and ought to be placed above the head, neck, shoulders; as that the House of Commons are or ought to be an entire Parliament; the fole Legislative Power, the only Supreme Authority, paramount both King and Lords; who must not now have so much as a Negative voice, to deny or contradict any of the Commons Votes, or Ordinances, though never to rath, unjust, dishonourable, prejudicial or dangerous to the whole Kingdom; as these new Dogmatists affirm.

Tenthly, The Commons themselves in their joynt Declaration and Refolution with the Lords, this Parliamen', con- * Exact Co!cerning his Majesties late Proclamation, 9 August 1642. lection, p. 508; printed by their special order declare and file bis Boule of Piers to be, the Pereditary Counsellogs of the King-Domt. The like they declare in their " Declaration of 16 Exact Col-January 1642. Mr. John Pym in his Speech at Guildhall lection, p. 846. in London, 14 January 1642. (made and printed by the Commons special order, asserted; That the Lords have an Dereditary interest in making Laws in this Kingdom. The Commons Houle in their Remonstrance of the State of the Exact Col-Kingdom, 15 December 1641. affirm, That the Peers are lection, p. 13,

the Kinos Breat Council : That the King summoned t'e 19, 528. Great Council of Piers to meet at York the 24. of September, and there declared a Parliament to begin the 3. of November following. In which Parliament when the Lords and Cormons met; they add. But what can we the Commons doe without the conjunction of the Boule of LOZOG & and what conjunction can we expect there, when the Bishops and Recusant Lords are so numerous and prevalent? thereby confessing that without the Lords concurrence

(who are the Great Council of the Realm) the Commons

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can do nothing at all in Parliament : fince all Laws, Ordi-* Exact Col- nances, Taxes, Votes that are valid and binding to the people, lection, p. 213. must pals Both Boules, and have the Lords as well as Com-276,277. 268, mons affe ; as they relove in fundr * rin ed Reminstran-269. 278,279 ces, & Declarations, mencioning Both Boules of Parlia-280. 250. 360. ment, and their concurrence to all things therein concluded; 455. 451.494. and the King likewife in his. The Lords and Commons 498. 526,528. in their Declaration of the 5th of August 1645. to the 531, 533,544 High and Alighy States General of the United Provinces; 502. 546,547. printed in A Collection of Ordinances of Parliament, p. 699, 548, 550,551. 557.560,561, 700. complain thus to them of this misinformation of 562. 578. 321, the i Amballadors, June 20. 1645. The Lower House hath 322,323. A ca sed the Chamber where they sit in, to be hanged with Tapi-Collection of fry, which was keretofore never fo. It is faid it is done, that Ordinances, the Lords changing their Chamber, shall come and sit in the P. 110, 111, 205,227. 879. House of Commons, and so to be both together reduced into one body, and the better agree by number of Votes: When heretofore the Parliament was full, then the Lords Chimber did con. filt of about 126.0r more Votes, and the Lower House of above

500 Votes; and they have alwayes been in several Houses, and the one could not conclude anything for a Resolution of the Hing, unless the other House of also consent; but now the King is absent, and the Apper Bouse Could now be melted into the Lower; and in the Common A Sembly of about 26 Loras which are now here, and some 200 Commoners, so the most Votes should rule and Ordain all matters: Thus much we are sold, and that it tends to hun many disputes, and hindrances which happen in their resolution every day. The Lords remain constant to maintain their Rights, and say: this is to take away all their Right and preregative, taking away their Boule; and fo to bring all the power under the Commons. 10 which Misinformation the Commons, (and Lords too returned this Answer to the States. M. Lords, the Commons are charged with endeavour of altering the fundamentals of Parliament, by taking away the Boule of Wers, and melting it into the Boule of Commons, when as there was never any debate in the House of Commons concerning a y fach matter, noz was the fame ever intended oz defired

peffred by the fait Boule, After this the whole House of " A Collecti. Commons in their Declaration of the 17 Aprilis 1646. of on of Orditheir true Intentions concerning the antient and fundamental nances, p. 8773 Government of the Kingdom; thus politively declared to all the world; That our true and real Intentions are, and our endeavours shall be, to maint oin the antient and fundamental Government of the Kingdom By Ming, Logos and Contmong: that we have only defired that with the confent of the Bing, fuch powers may be feeled in the two Boules, without which we can have no assurance but that the like or greater mischiefs, which God hath hitherto delivered us from, may break out again, and engage us in a second and more destructive warr. Seeing then the very Commons House themselves in these and fundry other printed Declarations have so fully, so frequently declared, resolved the Lords antient undoubted Hereditarie right and interest to fir, vote and affent unto all Laws, Ordinances, Proceedings in Parliament, as the Great Council, and Counfellors of the king. dom, and acknowledged this their Privilege and the House of Peers to be a part of the fundamental Constitution and Government of this kingdom, which they are refolved to maintain, and not to alter: and that they never in:ended nor defired, much lets endevoured the altering the fundamentals of Government by taking away the House of Lords; How any Commoners, Levellers or others can now dare to question, deny or oppugn this. their hereditary fundamental right of Peerage, or attempt the actual abolishing of the Honse of Peers, without the highest Impudency, Treachery, Absurdity, and incurring the Crime of a New Gun-powder Treason, to blow up the Honse of Lords afresh, which the old Jesuitical Popish Gun-powder Traytors only attempted, but could not accomplish; transcends my understanding to compre-

I rly, The General Council of the Officers of the Army in their Declaration made at Windsore; about January 1647. presented to the Lords House by Sir Hardress Waller; assetted. Thereditary Legal Right of the Lords and their House

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House in Parliament, and the Armies fixed resolution to uphold and maint ain them and their Privileges with their (words. And if John Lilburns printed Letter to the Speaker, July 8 1648. p. 26, 27. may be credited, Lieutenant General Cromwell himself, protested to him and others at the Lord Whartons house, and that upon his conscience in the fight of God, That the Lords had as true a Right to their Le. gillatibe and Jurifoidibe power over the Commons, as be had to the coat on his back, and that be and the Armo would support the same, How dare then any Levellers or Officers in the Army or elsewhere to question or attempt to abolish this their undoubted right to sit, vote. and exercise a legislative and Juridical Jurisdiction in Parliament, and that over Commons themselves in cases which concern their Peerage, and in cases not eriable pro-

12. Twelfihly, These very Sectaries and Levellers them-

perly elswhere but only in Parliament?

selves have acknowledged, afferted this Right & Power of the Lords all along this Parlsament till of late, as appears by their several Petitions and Complains to them upon fundry occasions heretofore; by their reforting to them for Justice against Strafford, Canterbury, and others; Yea (c) Jo. Lilburn himself, till his late quarrel with them, not only acknowledged their very power of Judicature, but highly applauded their Justice, in his own cause; Petitioning and part 3. p. 156. luing to them not onely for reverfal of the fentence against 157, where his him in Starchamber, but likewise for damages and reparatiwords & con-ons against his Prosecutors, pleading his cause by his Counsel tradictions in before them, as his proper Judges; who thereupon by judge. ment of the Honfe, vacated the Decree against him, as illegal; voted him Damages, and paffed him an Ordinance for the recovery and levying thereof; all which he himself hath published in fundry of his printed Pamphlets , wherein he acknowledgeth and extolleth their Justice. Take but one passage for all in his Innocency and Truth justified, p. 74, 75. If I be tranfmitted up to the Lords, I confidently believe I shall get forward, out of the former experiences of their Justice there, & I will in-

(c) See Innocency and truth justified, p.74,75. Mr. Edwards Gangræna,

this kind are recited at large.

> stance two particulars. First, when I was a Prisoner in the Fleet,

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Fleet, and secondly, May the tourth, one thousand fix hundred forty one. The King accused me of High Treason, and before the Lords Bar was I brought for my life; where, although one Littleton, servant to the Prince, swore point blank against me, yet had I free liberty to speak for my felf in * He did not the open House; And upon my defire, that Malter Andrews then demur also might declare upon his Oath what he knew about my bust to their jurisness, it was done; And his Oath being absolutely contradictory to Master Littletons, I was both freed from Littletons malice, and the Kings accusation, at the Bar of the while House: And for my part " 3 am resolved to speak well of Note, those that have bone me justice, and not to doubt they will Denp it me, till such time as by experience I find they doe it. And at that time he was so much for the Lords, that he writes most disgracefully, derogatorily of the Commons House, (and other his Confederates by his example) tells them of their want of power, injustice, and illegal proceedings (d) quarrels only with them, and their Committees, for their delays and injustice towards him: telling them (d) His Lerto their faces in many of his former, and late printed ter roafriend: * Libels: That they have no power at all to commit or examin Int otency him, or any other Commons of England without the Lords: nor stiffed. Hs yet to give or take an Oath: That they are but a peece, and Letters to the lowest part of the Parliament , not a Parliament alone ; That General. they can make no binding Votes, Ordinances or Laws, nor com- Hen. Martin mit nor command any Commoner, without the Lords, and in Cromwel one or two Pamphlets more he endeavours to prove Englands them to be now no lanfull house of Commons, at all; nor Birthrighr. would he ever acknowledge them to be so; and that he See Mr. Edw. would make no more conscience of cutting theirs and the Lords part 3. p. 146.
throats (the Tyrants and Oppressors at Westminster) than of to 228. killing fo many Weafels and Poleats; with many other like * The same scurrilous and mutinous expressions. His own printed he afferts Papers, Petitions, Actions therefore are an unanswerable in his Letter confuration of his malicious corrections of their Authorizations of the Speaconfutation of his malicious cotradictions of their Autho- ker , June 8, 1648. And

that the Commons then fitting, without the King and Lords were no Parliament at all, and could make no Acts, &c. See there p. 26, to 59. where he large

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rity and judicature fince, for their exemplary justice on him: And he must either now re-acknowlege their right of fitting, voting, judging in Parliament to be lawfull, or else renounce his own former P etitions and addresses to them for justice; retract all his former printed Papers, afferting their judicature, and extolling their justice; yea disclaim their judgement for vacating his own sentence, in the Starchamber, their awarding him damages, and passing an Order to recover them, as merly null and void, being made before no lawfull nor competent Judges, as now he writes, fince not elected by the Peoples Vote. Let those his followers, who admire him for his Law, observe these his palpable, invincible contradictions, and be ashamed and astraid to follow such an ignorant erronious guide, who writes only out of malice, faction, not of judgement, as his contradictions evidence.

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13ly. The Acts for preventing the inconveniencies happening by the long intermission of Parliaments. And to prevent the inconveniences which may happen by the untimely adjourning, proroging, or dissolving the Parliament (made this Parliament, and assented to by the King at the Commons importunity) confirm the Lords interest, right, to fit and Vote in Parliament beyond all dispute, and give them now power to summon a Parliament themselves in some cases, in default of the King, his Chancellor and

Officers.

14ly. The antient form still continued till this day, of dismissing and dissolving Parliament, the King licenseth THE LORDS and COMMONS TO DEPART HOME, and TAKE THEIR EASE. 37 E. 3. n. 34. 38 E. 3. n. 18. 40 E. 3. n. 16. 43 E. 3. n. 34. 45 E. 3. n. 8. 13. 47 E. 3. n. 7. (and all Parliaments since) proves their right of sitting in, and attending the service of the Parliament in person (without special license of the King, dispencing with their absence) during its continuance, in despite of all ignorant cavils to the contrary. The Kings license of them to depart being void and nugatory, if not bound by Law to attend the Parliament in person, as well as the Commons.

15ly. Finally, this hereditary right of the English Ba- Seldens Tirons, Lords, is demonstrated, resolved in this very clause tles of Hoof their Patents of creation ; when first created Earls or ch. 5. p. 663, Barons, inferted into all Patents fince, 20 H. 8. and im 665. 747, plyed by our Laws, though not precifely mentioned in 748, 763, all the antient Patents of creation before. "Volentes & 751,757. per prasentes concedentes pro nobis, haredons, & successoribus nostris, quod prafaius A. Comes (vel Baro, Oc.) S. & haredes lut mascult, ut Comites, vel Barones, de S.in omnibus teneantur , traitentur, & reputentur , et count quilibet babeat, teneat, et possideat sedem et locum in Warlamentis nottris, haredum et fuccefsogum noftrogum infra reg. num nottrum Anglia, inter alies Comites (vel Barones) ut Comes, vel Baro. Than which nothing can be more politive and direct in point.

I shall close up all the premises with two memorable Clauses in two writs of Summons to Parliament, evidencing not only the undoubted right, but absolute necessity of the Lords personal fitting, voting, and advising in

our Parliaments,

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In the Parliament held at York, in the 6 year of King Edward the third, the Archbishop of Canterbury, with some other Bishops and Nobles being absent, thereupon the Prelates, Nobles, Knights and Burgefles there prefent refused to act any thing, and resolved they could conclude nothing by reason of their absence: whereupon they prayed the King to adjourn the Parliament, and by a new Writ to summon the Archbishop, and all other Bishops and Lords then abient personally to appear at York on the day whereto the Parliament was adjourned, under a penalty, as is evident by these Clauses in the Writs of Summonst hen iffued. * Rex &c. venerabili in Christo Patri eadem * Rot, Clauf. gratia Archiepiscopo Cantuar. &c. Verum quia dict is negt - 6 E. 3. in 4 tiis in codem Parliamento propositis, que salvationem jurium Dors. Corona nostra, & regni nostri intime contingunt, Et notis incidure multum cordi, per Pralatos, Proceres, & Milites Comitatuum tunc ibidem prasentes Deliberato consilio refpontum erifit, quod in tam arouis negotiis fine beftri,

ac alfozum Pazlat. ac Pagnat. et Procerum pravido. zum ablentium pacientia, confilium et affensum pabere non postunt, nec debent : Isa quoa nobis cum instant a supplum not ne l'a liam, illud noque ad diem Mercuris noct av s Santti Hilari prox. i de futur. corsinuari feu protog ari & inte im vos et cateros Palatos, et Proceres tunc ablentes convocari faceremus. Ac nos, quanquam nu u moas aicutio norus d'maof.s e. periculof spinrimum videntur seorum Petitioni in bic parte annuentes, &c. Parliamentum predictum ufque ad oct av . pradictas duximus continuandum fen prorogandum. Ac Pralatis, Magnatibus, Militibus, Civibus, & Burgensibus injanximus, quod tunc ibio. interfint, quacunque exculatione cellante, acomnibus aliis patermisis, Ne igitus conting at (quoa absit) dict a negotia ad nostri & regni nostri damnum, & dedecus per vestri seu aliorum ABSEN-TIAM, ulterius prorogari, vobis in fide & dilectione quibus nobis tenemini, et sub periculo quod incumbit districte in ungendo mandamus, quod omni excusatione cessante sitis personaliter apud Ebor. in dictis Otab. nobiscum, & cum cateris l'ralatis & Magnatibus dilli regni nostri super dittis pegotiis tractaturus, et vestrum consilium imp nsurus. Scientes, quod f per VESTR AM ABSENTIAM CONTI-GERIT dicta negotia (quid absit) ulterius retardari, dissimulare non poterimus, quin ADVOS EXINDE, SICUT CON-VENIT GRAVITER CAPIAMUS, Tefte Rege apud Ebor. II Die Decembris. Eodem modo mandatum est 17 aliis Episcopis, 13 Abbatibus, & 40 Magnatibus, & aliis. And in another writ of Summons the same year to the same Archbishop of Canterbury, there is this Clause in-" Clauf. An. 6 E. 3. part a. ferred against making any Proxie. " Sciemes pro certo, quod nisi evidens et manifesta necessitas id exposcat non intendimus m. 36. dorf. Procuratores (en Excusatores pro vobis admittere ea vice, propter arduitatem negotiorum pradictorum. Which Clause amongst other reasons was then inserted, because the Clergy in a Parliament held at Eltham some two years before, refused to grant this King an aid for the defence of Ireland; by reason of the Archbishops absence from it , adjourning their answer to this aid, till they all and the

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A, chbishop assimbled together in a future Convocation, to be Summoned by the Kings writ, * as the Clauf. Rol. An. 4 E. 3. Mat. Paris, m.3. dorfo records. Thus the Bishops and Clergy refused to P. 359. 625. grant an aid to King Henry the 3. Anno 1232. and like. 626. wife another aid to the Pope, Anno 1244. because many of the Bishops and Abbots who were summoned to the Parl. then held, were not present. Adding; Tangunt ift a Archiepiscopos necnon universos Anglia Pralatos; cum eron Archiepiscoti, Episcopi , & alii Ecclesiarum Pralati fint Absentes, in gozum majuditits respondere nec posiumus nec bebemus. Onia hid totere pralume emus in prejuditium omnium Abfentium fieret Dazlatorum. All excellen: Prefidents both for the Lords and Commons in all fucceeding ages, not to vote or act any thing, or grant any aids, or Subfidies upon any occasion, menace, or intreaty; whiles their Members who ought to be personally present are ablent, much more when forcibly fecured, or fecluded by internal confederacy, or external armed violence, or the whole House of Peers sequestred or suppressed by factious, feditious, Levellers, who now defign their * See their total and final extirpation out of their future' New-model- Agreement of led Parliaments. the people.

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Having thus impregnably evinced the Lords undoubted right to fit and vote in Parliament, though they be not elective by the peoples voices, as Knights and Burgesses are; I shall next discover unto our illiterate Ignoramusses, who oppose their right, the justice, good grounds and reasons of our Ancestors, why they instituted the Lords to fit and vote in Parliament by right of their very Nobility and Peerage, which will abundantly fatishe rational men, and much confirm their right.

First, the Nobles and Great Officers in a'l Kingdoms, and in our Kingdom too, in respect of their education, birth, experience, imployments in military & State-affairs, have always been generally reputed the wifest, most experienced Common wealths men , best able to advise , Counsel the King and kingdom in all matters of Government, Peace, or War; as our Historians, Antiquaries, Politicians,

Records, acknowledge and atteit; whence they were antiently filed (e) Eldermen, Wifemen; Mignates, Optimates, (c) Mr. Seldens Titles Sapientes, Sapientissimi et Clarissimi viri: Conspicui, Clarig, of honour, part. 2. ch. 5. Viri, Primates, Nobiles, &c. in our Historians and Records: our Parliaments in that respect being frequently stiled in Sir Edward Cooks Epiftle antient times, Concilium SAPIENTUM: upon which to the 9 Re-Grounds our Kings, Lords, and * Commons too, when port, and I Inflit. p. 110. ever they recommended Councellors of State to the King 4 Inflit. p. 2. in Parliament, made choice of Lords, and other Peers for Cambdens their Privy Councellors, as moth wife, able, different) Bir, p. 177. Therefore it was thought fit, just and equal, the King Spelmanni Concil, Tom. should ever summon them to the Parliament by his Writ, 1. My Truth without any election of the people, for their own inhetriumphing o- rent wisdom, excellency, valour, learning, worth; the Over Falshood, riginal cause of advancing, enobling them at first, as is ex-P. 56 to 70. Star. de 4 E. preiled in their Patents : and evident by these Scripture I.e. 2. Lam- Texts. Efth, 1. 13, 14. Ifay 19. 11, 12, 13. fer. 5. 5. c. bards Archai- 10.7.c. 51.57. Dan. 2.48.c. 6. 1, 2, 3. Gen. 41. 39. 40. Pfal. 105. 21, 22. compared together. This ground of 36. 55, 56. 45 calling the Nobles to the Parliament, is intimated in the E. 3. n.15,16. very words of the fummons, Et ibidem VOBISCUM Col-50 E. 3. n. 10. loquium habere & tractare de arduis & urgentibus Regni & to 14. 1 R. 2. Ecclesia Anglicana negoriis, VESTRUMQUE CONSI. n. 18. 10 27. LIUM IMPENSURI, &c. Et hoc nullatenus omittatis: 47.50,51, 112 which clause (recited in the Commons writs of election 113. 17 R. 2. which clause (recited in the Commons writs of election 113. 17 R. 2. which clause (recited in the Commons writs of election 113. 17 R. 2. which clause (recited in the Commons writs of election 113. 17 R. 2. which clause (recited in the Commons write of election 113. 17 R. 2. which clause (recited in the Commons write of election 113. 17 R. 2. which clause (recited in the Commons write of election 113. 17 R. 2. which clause (recited in the Commons write of election 113. 17 R. 2. which clause (recited in the Commons write of election 113. 17 R. 2. which clause (recited in the Commons write of election 113. 17 R. 2. which clause (recited in the Commons write of election 113. 17 R. 2. which clause (recited in the Commons write of election 113. 17 R. 2. which clause (recited in the Commons write of election 113. 17 R. 2. which clause (recited in the Commons write of election 113. 17 R. 2. which clause (recited in the Commons write of election 113. 17 R. 2. which clause (recited in the Commons write of election 113. 17 R. 2. which clause (recited in the Commons write of election 113. 17 R. 2. which clause (recited in the Commons write of election 113. 17 R. 2. which clause (recited in the Commons write of election 113. 17 R. 2. which clause (recited in the Commons write of election 113. 17 R. 2. which clause (recited in the Commons write of election 113. 17 R. 2. which clause (recited in the Commons write of election 113. 17 R. 2. which clause (recited in the Commons write of election 113. 17 R. 2. which clause (recited in the Commons write 113. 17 R. 2. which clause (recited in the Commons write 113. 17 R. 2. which clause (recited in the Commons write 113. 17 R. 2. which clause (recited in the Commons write 113. 17 R. 2. which clause (recited in the Commons write 113. 17 R. 2. which clause (recited in the Commons write 113. 17 R. 2. which clause (recited in the Commons wri c. 1, 2. 13 R, likewise) implies them to be men of most wisdom and 2, n. 6, 7. 17 experience, able to counsel and advise the King in all R 2. n. 17, hit weighty, arduous affairs both of the Kingdom and 18.8 H. 4. n. Church: whence by Hereditary antient right they are, THE H. 4, n. 24, KINGS GREAT COUNCEL, and so acknowledged by 28, 39, 44. 13 the Commons themselves this last Parliament. I could H. 4. n. 11. give many instances wherein the Commons in Parlia-(f) Sec rhe ment have extraordinarily applauded the Lords and power of Par-Peers for their great wildom, and specially defired their liaments, part

1.2. *25 E. 3. rot. Ordinar. n. 1, 2, 28. E. 3. n. 1, 50. E. 3. n. 151,163.

167. 10, R. 2, n. 68, Exact Collection, p. 13. 19.

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wholfom Counfel, as perions of greater wildom and experience than themselves: but for brevity take I shall cite only their enluing Records. In the Parliament of 21 Edw: 3. rot. Parl.n. 4,5. Wil-de Thorp in the presence of the King, Prelates, Earls, Barons, and Commons declared, that the Parliament was called for two causes: + The first concern bridgement of ing the wars which the King had undertaken by the confent of the Records the Lords and Commons against his Enemies of France. The of the Tower, second, how the Peace of England may be kept. Whereupon P. 51. 88. the King would the Commons should consult together, and that within four days they (hould give answer to the King and his Counsel what they shink therein. On the fourth day the Commons declare, That they are not able to counsel any thing touching the point of War; wherefore they defire in that behalt to be excused: And that the King will thereof advice with his Robles and Council, and what shall be so among It them determined, they the Commons will thereto affent, confirm, and establish By which it is evident the Commons then reputed the Nobles more wife and able to advise the King in matters of war than themselves, who confessed their inability therein, and therefore submitted to affent to whatever the Nobles and Councel should therein advise Him. 28 Edw. 3. n. 55, 58. The Commons submit the whole businesse of the Treaty of peace with France, to the order of the King and of his Bobles. And 36 Edw. 3.n.6. The LORDS only advise the king touching Truce or War with Scotland. In the first Parliament of 15 Edw. 3. n. 11. the Commons having delivered in divers Articles concerning the redress of grievances and publike affairs to the King, prayed, that unto the Wednesday ensuing their Articles may be committed to the Blhops, Barons, & other wife men there named, by them to be amended; which the king granted: whereas the Lords exhibited their Articles apart to the king , and the Bishops their Articles apart in this Parliament, and protested, that they onohe not to ensure but in open Purliament by and with theft Peers, without joyning with the Commons, num. 6, 7, 18, 00, 26, 27, 35, 37, which course they held in most following Parlic-

Parsiaments. In the Parliaments of 47 E. 3. numero 15. 50 E. 3. n. 8. 51 E. 3. n. 18. 1 R. 2. n. 14. 2 R. 2. n. 23. 5 R. 2. n. 14. 6 R. 2. n. 14. Parl. 2. n. 8. 7 R. 2.

* See the A. n. 9. 19. 4 H. 4. n. 10. 11. * The Commons Petition the King bridgment of for certain Lords to be sent to them as a Committee, to assist and the Records advise them in the matters propounded to them by the King and in the Tower, his Chancellor, wherein their advise was required: as being p. 10. 79. 116. more able to advise and counted them than any of their 130. 145. 155. own Members. In the Parliament of 6 R. 2. Par. 2. n. 7. 287, 288. 299. The Commons being demanded their advice touching the war 303. 353. 361. with Handers, and the Kings going thither in person with

an Army; answered : That this consultation did properly belong to the King and Lords, yet it being their pleasures to charge the Commons to deliver their conceits therein, they thereupon did it with this Protestation, that what they spake was not by way of COUNSEL, but to shew their advice. Whereto was aniwered for the King; That there was but little difference between Counsel and Advice. In the Parliament of 7 R. 2. n. 16, 17. The Commons being charged to deliver their Opinions touching Peace with France. For answer to Peace, said; That it befermed them not to intermeddle with their Counsel therein : And therefore referred the whole order thereof to the King and his Counsel of Lords. Whereupon the Commons being urged to declare, whether they defired Peace or Warr? for one they must chuse: Answered : an hononrable Peace for the King : but for that in the Articles were conteined many terms of the Civil Law, which they understood not; and for that they understood the Articles were; The King (hould hold Guienne of the French by Himage and Service, they knew not what to fay; only they hope, that the King meant not to hold Calice, and other Countries gotten by the fword, of the French. In the Parliament of 17 R. 2.n. 17. The Commons being demanded their opinions concerning Peace with France, declared by their Speaker, That the fame paffed their capacity; and therefore they referred themselves to the Bing, Lozos Council, And the rather, for that the Lords and Council affirmed, that those words (Homage, Soveraignty, and Resort) conteined in th

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in the Indenture of Peace, should be moderated, &c. In the P. rliament of 20 R. 2. n. 2. The Commons excuse themselves touching the Embassadors and Embassie sent to France for peace, referring the same to the Kings own pleasure and the Lords.

I shall conclude with one President more, most suital le to the present deplorable condition of our State, and wor-

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In the Parliament of 5 Hen. 4. Rot. Parl. num. 9,10. The Commons having presented to the King in Parliament divers grievances, in the ill-managing of his Revenues, the decay of his Cattles, Houses and Parks; the great povertie and pressures of his Subjects, and danger of the Enemies : thereupon . hey most intirely and cordially prayed the King, to consider the eminent perils of all parts of the "Realm by reason of the Enemies and Rebels, of which "they had news from day to day; and that as the case then "flood, if fuch milchiefs were not speedily and graciously " remedied and reformed in this Parliament, it might fall "out upon fodain arrival of Enemies, or by some other "means, this Parliament must of necessity be departed c from by all and dissolved, so as the Lords and Commons " should never re-assemble again to redress the said Mis-"chiefs, and others, which God defend. And therefore "that it would please the King, considering the bigb "Willooms and Discretions of the Lords, and that they "bad knowledge of many Perils and Patters which " could not be so clearly known to the King, that he would " now in this present Parliament charge all his Loads Spicritual and Temporal, upon the faith they principally "owe to God, and the faith, Homage and Allegiance which they owe to our Lord the King himself, for the "aid and falvation of themselves, and of all the Realm, " that the faid Lozos would counfel and fhew him their "advice and wholefor counfel in this behalf feverally and intirely without diffimulation, or adulation, having " regerd to the great milchiefs and necessity aforesaid. " And thereupon our Lord the King most graciously, with "his.

"his own mouth in full Parliament, charged and comman-" ded as well the Lords, as the faid Commons, that they "hould doe their diligence, and fhew unto him their "good and wholesom Counsels in this behalf, for the aid " of him and all his Realm. And after the faid Commons " in the same Parliament, made request to the said Lordt, " that feeing the King had given them fuch a charge and "command, and that in so high a manner of Record, that " they would do their diligence, well and loyally to pur-" fue the same without any courteste made between them " in any manner, as they would answer before the most "High, and before our Lord the King, and to all the realm "in time to come; and that the Commons themselves "thereupon would do the like on their party. Which if both Lords and Commons would now cordially and fincerely promife and engage to do, without lelf-ends or inrests, we might see our Church and Kingdom speedily fetled in a peaceable and happy condition. In brief, the Lords alone in the very Writs for chuling Knights and Burgeffes, are filed, * The Common Council of the Kingdom, and the Knights, Citizens and Burgesles are called, to effect and affent to that which they and the King, by their common advice, hall Ordain, and 5 Rich. 2. Parl. 2. n. 3. 6 R. 2. n. 8, 9, 11, 26. and Parl. 2 R. 2. n. 7.9. they are called THE GREAT COUNCIL OF LORDS, by reason of their extraordinary wildom and abilities. And fo are they expresly stiled by the whole House of Commons themselves in their first printed Remonstrance of the State of the Kingdom, 15 Decemb. 1641. Exact Collection, p. 13. Therefore most fit to fit, counsel, advise, vote, and judge in Parliament.

Secondly, The Lords and great Officers of the Realm, as fuch; were ever reputed persons of greatest Valour, Conrage. Power, (in regard of their great interests, Estates, worth many whole Boroughs, of which divers of them are sole Lords, their allies, and retainers) and so best able to withstand, redress all publike grievances, exactions, en. croachments of the King, his Officers, and others upon

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their own and the peoples Liberties, Laws, Great Charters, in defence whereof they have in antient times been alwaies molt ready, active to fgend not only their ellate, but bloud and lives too, wherewith they have redeemed, preserved those Laws, Liberties, Great Charters concerning their Freedoms, we now enjoy and contend for. And in this regard our Ancestors in point of wisdom, policy, rea. fon right, thought meet, that ex congruo et condigno, et * debito Justicia, they should alwayes be summoned to this Edward and bear chief fway in our Parliaments, in respect of their Cooks 4 In-Perage, Power, Nobility only, without the peoples e. flir. p. 1. lection. This reason of their sitting in Parliament, we find expresly recorded in Bratton, l. 2. c. 16. fol. 34. and in Fleta, 1.1.c.17. The King (fay they) hath a Superiour, namely, God; also the Law , by which he is made a King ; likewife his Court, to wit, THE EARLS & BARONS, because they are called Counts, as being the KINGS FELLOWS, and he who hath a Fellow, bath A MASTER. And there. fore if the King shall be without a bridle; that is, without a Law; debent es franum imponere, THEY OUGHT TO IMPOSE A BRIDLE ON HIM, &c. which the Commons being persons of less power and interest were unable to do. Andrew Horn in his Mirrour of Justice, ch. 1. 6. 2. 3. renders the like reason. In all the contests in Parliaments, and Wars between K. John, Hon. 3. Edw. 2. & Rich 2. concerning Magna Charta, the Charter of the Forest, the Liberties, Properties of the Subjects, and opposition of unjust Taxes, Ayds, Exactions, the Lords and Barons were the Ring-leaders, the chief Oppofers of thele Kings Usurpations, Exactions, and Encroachments on the Great Charters, Laws, Rights, Liberties of the reople, as (g) See Mar. all our (g) Historics and Records relate; whence they file Paris, Mat. the Wars in their times, THE BARONS WARS: and Westminster,

Walfingham , Huntingdon, Holinshed, Polychronicon, Caxton, Grimston, Stow, Speed, Trusfel, Baker, Martin, Daniel, How, and the Soveraign Power of Parliaments and Kingdoms, part. 1, 2, & 3. 10 R. 2, c, 1, 2, 11 R. 2, c, 1, to 7, 21 R. 4, C 7, 10

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Mar. Paris, Historiar Angl. Tigur. 1588. P. 52, 53,54.

" Mr. Tate, Mr. Ager, & others.

ing the Tyranny of K. Sigebert, and K. Bernard, and dethroning them for their mildemeanours, as is clear by Mat. Westminster in his Flores Historiarum, An. 756. & 758. To give some pregnant Instances of this kind not vulgarly known or taken notice of, to clear this truth beyond contradiction. Upon the death of William Rufus, An. 1100. Magnates, the Nobles of England not knowing what was become of Robert Duke of Normandy, who had been 5. years absent in the holy Warrs; thereupon Henry his Brother, " Congregato Londoniis Clero Ang-"liz, & populo universo, (to wir, the Lords Spiritual and Temporal expressed by these terms, not the inferiour Clergy, Knights, Citizens, Burgeffes and Commons of the Realm," as some Antiquaries and others mistake, who derive their fitting in Parliaments from the beginning of this Kings reign) " promisit emendationem legum quibus op-"pressa fuerat Anglia tempore Patris sui & Frairis nuper " defuncti: ut animos omnium in sui promotionem accen-"deret et amorem, et illum in Regem susciperent et patro-"num. Ad hac CLERO respondente et MAGNATI-"BUS CUNCTIS (the Clerus & populus there summo-" ned) quod fi animo volente ipfis vellet concedere, et " Charta fua communice illas Libertates et Confuetu-" bines antiquas que floquerunt in Regno tempore Re-"gis Coward, in ipfum contentirent, et in Regem unani-"miter consecrarent. Henrico autem libenter annuente, et se id facturum cum juramento affirmante, con-" secratus est in Regem favente Clero et populo, cui con-"tinuo à Maritio Londonensi Episcopo, et à Thoma E-" boracensi Archiepiscopo corona capiti imponitur. Cum "fnerat diademate infignicus, bas Albertates Subscri-"ptas n regno , ad exaltationem lanctæ Eccleliæ et pacem populi, renendas concessir. His Charter is recorded at large in * Matthew Paris, + Bromton, and others. It begins thus, "Henricus Dei Graria, Rex Anolia, &c. Sci-"atis, me Dei mifericordia, & Communi Confile Ba-1 202. See Ho- conum Regni Angliæ Regem ede cozonatum (which

" Historia. Angl. p. 53. † Chronicon col. 1101, Speed.

proves that the Clerus Anglia & Populus forementioned, were only the Spiritual and Temporal Barons, nor ordinary Clergy and Commons, as contradiftinguished from them) "et quia regnum oppressum erat injustis exactio-"nibus, Ego respectu Dei et amore quam erga vos omnes "habeo, fanctam Dei Ecclesiam liberam facio, &c. et ome nes malas consuerudines quibus Regnum Anglia injuste "opprimebatur, inde aufero: quas malas confuetudines " in parce hic pono. Si quis Baronum meogum, Comf. or Legem. "tum, &c. " Lagam Regis Edward vobis reddo cum illis "emendationibus quibus Pater meus eam emendavit " Confilio Baronum fuozum. This Charter was subscribed by all the Bishops, Earls, Nobles and Barons of England; . Et facte funt tot Charte quot funt Comitatus "in Anglia, et Rege jubente posita in Abbatiis singulorum "Comitatuum ad monimentum So Matthew Paris relates. De Geftis " William of Malmibury records: "In regem electus eft, Regum, 1, 5. "aliquantis tamen ante controversiis INTER PROCE-p. 156. "RES agitatis, atque sopitis. Which done, aliquarum mo-"derationem legum revocavit in solidum, & Sacramento " fuo et OMNIN M PROCERUM, ne luderentur, cor-"roboravit. + Simeon Dunelmen sis records, that "Con- De Gestis " secrationis suæ die Sanctam Dei Ecclesiam liberam secit, Regum Ang-"ac omnes malas consuetudines, et injustas exactiones liz, col,225, quibus regnum Angliz opprimebatur, abstulit, Legem 226. "Regis Edwardi omnibus in commune reddidit, &c. " MAJORES NATU ANGLIÆ, & MAGNATES "TERRA CONGREGAVIT LONDONIA. * Chronicle of Bromton, records the same in the self-same * Col. 997. words: and to doth Henry Knyghton de Eventibus Anglia, 1. 2. c. 8,9. Polychron. 1.7.c. 12. Roger de Hoveden, Annal. pars 1.p. 468. and that the Lords procured this Charter.

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King. Stephen being elected and crowned King à PRI. Richardus MOR IBUS REGNI; against his own and their former Prior Hagustaldensis de

Gestis Regis Stephani, col. 314, 315. Mar. Paris, p. 71. Roger de Hoveden. Annal. pars prior, p. 482. Hen. Huntindon, Hist. l. 8. p. 386, 387. Fabian, Holinshed, Speed, Grafton, Anno 1136. Polychronicon, l. 7. c. 18. Hen. de Kn. 31-ton, de Eventibus Angliz, l. 2. c. 9, 10.

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Oaths, Omnestam Prasules, quam Comites et Barones, qui filia Regis et suis haredibus juraverant Fidelitatem, consensum Stephano prabentes: In pursuance of his Coronation Oath Anno 1136. EPISCOPOS & PROCERES REG. NI SUI regali Edicto in unum convenire pracepit, cum quibus GENER ALE CONCILIUM CELEBRAVIT Oxoniis. Wherein he confirmed all their Laws and Liberties by a special Charter: in which there are these Clauses among others. Sandam Ecclefiam liberam effe concedo, " et debitam reverentiam illi conservo. Omnes exacti-"ones et injustitias et meschemingas, sive per Viceço-" mites, five per' alios quoffibet male inductas, fundi-" tus extirpo. Bonas leges et antiquas et justas consuetudines in hundris & placitis, et aliis causis observabo, et " observari pracipio et constituo. This Charter was subscribed by all the Bishops, Earls and Barons, who procured it, in this Common Council at Oxford. Which they promised inviolably to observe, & generaliter se servaturam juravit: fed nihil horum qua Deo promiferat observavit, writes Matthew Paris: Henry Huntinden, Holinshed, and others observe, that the Archbishops, Bishops and Nobles, who contrary to their Oaths of Allegiance to Henry the 1. Mande, and their heirs, elected Stephen King, for this their detestable perjury, foon after came to exemplary ends: especially Roger the great Bishop of Salisbury, qui secundum illad Sacramentum prafatum fecerat, et omnibus aliis pradicaverat; unde justo Deo judicio postea ab eodem (Stephano) quem creatit in Regem, captus et excruciacus, miserandum sorticus est exterminium, et omnes Magni qui Stephano juramentum fecerunt MISERUM SORTITI * Mar. West. SUNT FINEM.

Mar. Paris, In the * 16. and 17. years of K. John, An. Dom. 7214, Hift Angl. p. 1215. The Prelats, Earls, Nobles, and Barons, being affem-Daniel, p. 140. bled together in a great Parliamentary Council held at to 144. Speed, Pauls & after at St. Edmunds, there was produced and read p. 558. to 567. before them a Charter of King Henry the 1. which the Ba-Holinthed, rons received from Stephen Archbilhop of Canterbury; which bian, and o. Charter conteined certain Laws and Liberties of King Edbers. 2 qui

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ward, granted to the holy Church and the great men of the Realm, with some other Liberties which the faid King had added thereunto of his own grant. Which being read, thereupon the BARONS ALL swore in the Archbishops prefent, that if need were, they would spend their blood in its defence. And afterwards at St. Edmonds Bury, the BARONS (wore upon the High Altar, That if King John refused to confirm and restore to them those Liberties and Rights of the kingdom; they would make War upon Him, and withdraw them felves from his allegiance, till be had ratified them all by his Charter under his Great Seal. Which they accordingly performed. The King promiting to confirm their Liberties and the Charter of King Henry the 1. which the Barons publikely read in 3. of their Great Parliamentary Councils) and yet delaying the same; thereupon all the Nobles and Barons affembled together at Stamford, with their horfes, friends and followers, amounting to many thousands, resolving to force the King to grant and ratify the fame. Whereupon the King sent the Archbishop of Canterbury, william Marshal Earl of Pembroke, and other prudent mento the Earls and Barons, to demand of them, Qua effent Leges & Libertates quas quarebant? Who thereupon produced a schedule of them to the Messengers, que ex parte maxima Leges antiquas & regni consuetudines continebal; Capitula earum partim in Char ta Regis Henrici I. Superius scripta funt; partimque ex Legibus Regis Edwardi antiquis excerpte. The Barons affirming, quod nifi Rex illas in continenti conce. deret, et Sigilli munimine confirmaret, ipsi per captionem Castrorum suorum, terrarum & possessionum IPSUM RE-GEM COMPELLERENT, donec super pramissis satisfaceret competenter. The Archbishop returning to the King, and repeating the Articles and Liberties they demanded to him by heart; when he understood their contents, with great indignation and forn answered : Et quare cum istis iniquis exactionibus BARONES non postulant regnum? Vana sunt, iniquit, et super fitiosa que petunt, nec aliquo rationis titulo fulciuntur. Affir mavit tandem cum juramento fu ribundas, quod nunquam tales illes concederet Libertas

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tes, unde iple efficeretur ferbus. When the Archbithop and William Marihal the Earl, could by no means induce the King to consent thereto, they returned by his command to the Barons, relating all that the King had faid to them in order. Whereupon tota Anglia Bobilitas in unum collecta, allthe Nobles of England collected together into one boay, constituted Robert Fitzwalter General of their Militia, calling him, MAR ESCALLU MEXER-CITUS DEI ET ECCLESIÆ SANCTÆ; and flying to their arms, belieged leveral of the Kings Caltles. Who thereupon seeing himself generally deserted almost by all men, and fearing the Barons would take his Castles withour any relistance; though he bare an inexorable hatred against the Barons in his heart : yet thinking to be revenged of them fingly afterwards, when he could not do any thing against them all being united, he fent Messengers to a lure them; quod pro bono pacis, & ad exaltationem Regni fui et honor, m Gatanter concederet Leges et Libertates quas petebant; defiring them to appoint a fitting time and place for them to meet and conferr together, and perform what they defired. Whereupon the King & all the Nobles and Barons meeting together at a Conference in Running Mead, he after many debates granted them the Laws and Liberties they defired, confirming them by his Charters under his Great Seal: the Tenor whereof is at large recorded in Matthew Paris, and in the Red Book of the Exchequer; being almost the same in Terms, with Magna Charta, and Charta Foresta, afterwards granted & confirmed in 9 H. 3. printed in all our Statute Books, and so needless to transcribe. These Charters being sealed and confirmed by the King, he at the Barons requelt, fent Letters Patents through all the coasts of England, firmly commanding all the Sheriffs of the whole Realm, that they (hould cause all men of what condition soever within their Bayliwicks, to swear, that they would observe the foresaid Laws and Liberties, and that to the best of their power they would constrain the King himself, by the seising of his Castles, to perform all the things aforesaid, as they were conteined in his Charter. In mean

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time the King sent Letters to Pope Innocent, to vouchfase to const in the Liberties and Charters he had granted, with his Bull. After which for their more inviolable observation, it was concluded and enacted; That there should be 25 BARONS chosen by the LORDS (not Commons) who should, to their utmost power, cause the Great Charter confirmed by K. John, to be duly observed; That if either the King, or His Justicier should transgress the same, or offen in any one Article, 4 of the said Barons should immediately repair to Him, and require redress of the same without delay; which if not done within forty days after, that then the said 4 BARONS and the rest should distrain and seize upon the Kings Castles, Lands and Goods, till amends was made according to their arbitration.

Rot. Patent, Anno 17. Johannis Regis, in the Tower, m. 21, 22. n. 23. Derfo. Wrats were fent to all the Sherifs & Counties of England to swear all the people to those 25 Barons, to aid and assist them in the premises, under pain of seizing their lands into the Kings hands, and consistent of all their goods to him, if they resused to take the Oath within 15 dayes. And the City and Tower of London were put into the Barons hands, till the King had performed his agreement with them: Such considence and power was then repo-

In the Patent Roll of 16 Johannis Regis, pars 1. dorf. 3.

In the Patent Roll of 16 Johannis Regis, pars 1. dorf. 3.

I find this memorable Grant to the Barons. well explaining the Strute of Magna Charta, c. 29, "Sciatis quod "concessimus BARONIBUS qui contra nos sunt, quod eos nec homines suos capiemus, nec distaiseamus, nec super "eos per vim. vel per arma ibimus, nist per legem Regis in nostri, bel judicio Barium suozum in curia nostra,

A very excellent Privilege, Law, Liberty, purchased by Mar. Paris, the Barons industry, inserted into K. Johns Great Charter, p. 247, 248, soon after published, ratifying it in these terms. "Comites liber Rep. in & Barones non amercientur nisi per Pares suos, & non nisi Scac. f. 2345, lecundum modum delicti. Nullus liber homo capia-235;

[&]quot;fecundum modum delisti. Nullus liber homo capia-"tur vel imprisonetne, vel dislaisseur de aliquo libero

[&]quot;cenemento suo, vel libertatibus, vel liberis consuctu-

"dinibus tuis, aut utlegetur aut exulet, aut aliquo alio "modo destituatur, nec super eum ibimus, nec eum in "carcere mittemus, nisi per legale judicium Parium suo- rum, vel per legem terræ, Nulli vendemus, nulli ne- "gabimus, aut disferemus Rectum vel Justitiam.

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The Barons having by their valour, magnanimity, industry, procured these Great Charters of their liberties; and of the Forest, were as carefull, vigilant to preserve them, to punish the Violations of them, and to get them reconfirmed, repromulged, when violated by our Kings, which I shall manifest by some Records & Histories, not

commonly known, or taken notice of,

Rot. Pat. 17 Johannis, pars 1. m. 19, 21, 22, 23, 24. Dorso, and Chart. 17. Joh. Dors. 27. There are sundry Patents, Commissions, Writs, for sending the Great Charter, and Charter of the Forest into every County, for enquiring of all evil customs contrary to them, that they might be abolished, & all violations of them, that they might be redressed; all by the Barons procurement, and by agreement between the King and Barons, whose names are there inserted.

Pat. 1. Her. 3. m. 13. & 15 The Great Charter, by advice of the Earls and Great men, is sent by King Henry the third into Ireland, the exemplification whereof was sealed with the Po es Legates Seal, as well as the Kings: and precepts are there sent to Sherifs, to read it openly; it being thus stiled in these Records. Libertates (& Charta libertatum) Regni nostri Anglia, a patre nostro & anobis concessa. so Clause 12 H. 13. pars 1. m. 17. There is another precept for publishing and observing the Great Charter in Ireland.

Rot. Clauf. 2 H. 3. m. 6. & 11. Dorso. The Great Charter, by special writs, is commanded to be duly keps, read, and observed in most Counties, and sent down into Torkshire for that end, by the Barons advice and procurement.

Pat. An. 3. H. 3. pars 2.m. 3. There is mention of Chartanostra &: Libertatibus Foresta concessis probis nostris kominibus de Anglia. By the Barons means, and otder for its observation.

Anno

alio Anno Dom. 1223. The 7th. of Henry the 3 his reign, " Mar. Paris, This King in the Octaves of Epiphany, "apud Loudonias P. 305. Mar. n in weniens cum Baronibus ad colloquium, requifitus est ab 1223. p. 113. uo-"Archiepiscopo Cantuariens, & Magnatibus alits, ut See Danlel, ne-"libertares, & liberas confuetudines pro quibus guerra Holinshed, "mota fuit contra patrem fuum, confirmaret. Et ficut Speed, in-"Archiepiscopus oltendir evidenter, idem Rex diffugere Grafton. and em, "non potuit, quin hoc facerer, cum in recessu Ludovici dab Anglia juraverat, & tota Robilitas Anglia cum illo, nem ngs, quod libertates prælcriptas omnes observarent, & ab " omnibus traderent observandas. Quod audiens Gulielnot c' mus de Briwere, qui unus erat ex Confiliariis Regis, pro Rege respondens, dixit : Libercates, quas petitis, quia 24. Pa-"violenter extortæ fuerunt, non debent de jure observari. rter, "Quod verbum Archiepilcopus moleste serens, increpag of "viceum, dicens, Gulielme, fi Regem in veritate deligebed, "res, pacem regni non impedires. Videns autem Rex by "Archiepiscopum in ira commotum, dixir, Omnes lib.rthe " rates illas juravimus, & omnes altricti fumus, ut quod "juravimus observemus. Et Rex protinus habito super ad-"hoc confilio, milit literas fuasad fingulos Vicecomites the Regni, ut per milites duodecim, vel legales homines, cal-"uniuscujuscunque Comitatus, per sacramentum facerent " inquiri, quæ suerunt libertates in Anglia, tempore Rengs: ugis Henrici avi fui, & facta inquisitione, Lindonias 1; IC mitterent ad Regem in quindecim diebus post Paschem. arta 2 20-These Writs and Letters of the King are recorded in the reis reat barad, into pron ot

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Tower, Rot. Clauf, 7. Hen. 3. part 2. m. 20. dorfo. Commanding the liberties found and retorned, to be proclaimed and observed: But it seems by Dorf. 14. there was a countermand, neither to proclaim nor observe them: Whereupon the King foon after fending the Archbishop Max. Paris, with three other Bishops into France to King Lewis, to P. 305, 306. render Normandy, with other lands, unto King Henry, ac- Mar. West. p. cording to his Oath made to him in his recels from England, with the confent of all the Barons: King Lewis thereunto replied, that King Henry had first broken his Oath to him in this particular amongst others, "De Lice berta-

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"bertatibus autem regni Angise, de quibus guerra mota " fuerat, que in recessa suo concesse erant, & AB OM-"NIBUS JURATÆ, ita actum ett, quod non tolum il-" læ leges pessimæ ad statum pristinum funt redu fæ, fed " & illis nequiores per totam Angliam funt generaliter "constituta : nec etiam Ecclesa fancta Libertates, quas "in Coronnione sua inviolabiliter se juravit conservatuurum conservat. Unde qui prius pactum violavit, ce primus & injuriofus exiltir, non ego. Quod audi-" ens Archiepiscopus, & Episcopi qui cum eo erant, cum " aliud responsum habere nequiverant, confusi ad propria " funt revers, Regi Angliæ quæ audierant referentes.

1 Mat. Paris , p. 308. Mar. Weff. p.117.

† In the 8 year of King Henry rhe 3. the King by reason of the infurrection of the Earl of Chester, and others, and the French Kings taking of Rochel from him, "Convene-" runt ad Collequium apud Northamptonam Rex cum Ar-"chiepi copis, Episcopis, Comitibus, Baronibus, & aliis "multis de regni negotiis tractaturi, &c. Wherein, "Regi pro maximis laboribus suis & expensis, tam à Præ-"latts quam a Laicis, concellum elt Carucagium per tocitam Augliam de qualiter cartica duo toiidi argenti. Whereupon the King by the Barons and Nobles confent and advice; as appears by Rot. Pat. 8. H. 3. pars 3. Dorf. 14, 15. Sent Writs to fundry Sherifs, and to the Bishop of Durham and his Chancellor, to proclaim and observe the Great Charter of Liberties, and the Chartet of the Foreft.

* Mat. Paris P. 311. Mar.

* In the 9 year of King Henry the 3. the Kingholding a Parliamentary Council at Westminster, demanded advice, West, p. 118, and also a fiftenth part of all the moveables of the Clergy and Lairy through England, for the recovery of the antient dignity, rights and possessions of the Crown, then lost, and feised on by the French King. Whereupon, "Ar-" chiepiscopus, & Concio tota Episcoporum, Comitum " & Baronum, Abbatum & Priorum, habita deliberatio-"ne Regi dedere responsum: quod Regis petitionibus er gratanter acquiscerent, si illis diu petitas libertates concedere voluisser. Annuit itaque Rex cupiditate ductus, nota

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ductus, quod perebant Magnates, Cartifque protinus "conscriptis, & Regis sigillo munitis ad singulos Anglia "Comitatus Cartæ fingulæ diriguntur, & ad Provincias "illas quæ in Foreltis funt constituta, duæ cartæ fint "directa, una scilicet de libertatibus communibus, & 21-"ter de libertatibus Foresta, &c. Et sic soluto Concilio "delatæ funt cartæ fingulæ ad fingulos Comitatus, ubi ex "Regis mandato, literatorio interpolito juramento, ab " omnibus oblervari jubentur : Ricardo fratre Domini Re-"gis milite libertates generales, tam Forestarum, quam "aliarum libertatum, pro quibus tantum cum Rege foh.de-"certatum fuit, licet nil Itabile vel folidum, vel pollicitat "redderetur vel observaretur (as now in this age) SUNT DECEPTORIA ACCLAMATA. These Charters are printed in all our Statute-Books, varying from those of King John in Iome particulars.

Rot. Clause, An. 18 H. 3. m. 10. The King in a Writ to the Sherit of Lincoln recites, that his Bailifs knew not how to levy their Hundred Courts in his County, "poltquam concessimus omnibus Regni nostri libertates "contentas in Cartis nostris, quas inde fecimus, dum fu-"imus infra ætatem. Nos eandem cartam nuper legi feci-"mus in præsentia Domini Cantuariensis, & Majoris, & "fanioris partis OMNIUM EPISCOPORUM, COMI-"TUM ET BARONUM TOTIUS REGNI NOSTRI. To the end that they might extound and refolve the 35 Chapter thereof, how the County Courts and Sherits Turns should be kept, which is fully explained and re.

solved in this Record by their advice. Rot. Clanf. 20. H. 3.m. 1.1.15, 16. There are fundry Writs for reading and observing the great Charter in Weltmerland, and other Counties, upon the Barons motions,

who were carefull of its inviolable observation.

In the year 1231. on the 7 of Feb. "Convenerunt ad * Mar. Paris "Colloquium apud Westmonasterium Rex cum PR E-P. 354,355.

"LATIS ET ALIIS MAGN ATIBUS REGNI; ubi " exegit Rex Scuragium de quoliber Scuro tres Marcas ab

"omnibus qui Baronias tenebant, tam Laicis quam

"Præla-

Prælacis. Cui Ricardus Cantuarienfis, & quidam Epif-"copi cum eo audacter resistentes, dixerunt; quod non

P. 359. P. 133.

" tenentur viri ecclesiastici judicio subjici Laicorum, cum "abique illis concessum suic scuragium in partibus trans-"marinis. Tandem vero post multas tunc inde descepti-"ones negotium quantum ad Prælatos reclamantes perti-"nebat, ad 15 dies post Pascha dilationem accepit. An-* Mat. Paris, "no 1232. Convenerunt Nonas Marcii ad Colloquium "apud Westmonasterium, ad vocationem Regis MAG. Mar. Westm. "NATES ANGLIÆ, tam Laici quam Prælati: quibus "Rex propoluit, quod magnis effet debitis implicatus, " causa bellicæ expeditionis, quam nuper egerat in parti-"bus transmarinis, unde NECESSITATE COMPUL-"SUS, ab omnibus generaliter auxilium postulavit. Quo "audito, Comes Cettriæ Ranulphus, pro Magnatibus "Regni loquent, respondit: Quod Comites, Barones, & " Milites, qui de co tenebant in capite, cum ipso erant "ibi corporaliter prælentes, & pecuniam suam ita inani-" ter effuderunt, quod inde omnes pauperes recesserunt: "unde Regi DE JURE AUXILIUM NON DEBE-"BANT. Et sic petita licentia, Laici omnes recesserunt. "Prælati vero Regi respondentes dixerunt, quod Episcopi "multi & Abbates qui vocati erant non fuerunt præfen-"tes, & sic petierunt inducias, quousque AD DIEM "CERTUM POSSENT OMNES PARITER CON-"VENIRE. Præfixa est iraque dies, a quindecim dice ebus post Pascha, ut omnibus congregatis tunc fieret " quod effet de jure faciendum. Both Lords and Prelates denying the Aid demanded against right, or to doe ought when their House was not full, and many Prelates and Members absent.

" Mar. Paris, P. 420, 411. P. 143, 144.

Anno 1 237. the 21 of Henry the 3. the King immediately after the Featt of the Nativity, Mist per omnes fines Anglia scripta Regalia, pracipiens omnibus ad Regnum Mar, Westm. Anglia speltantibus, viz. Archiepiscopis, Espiscopis, Abbacibus et Prioribus installatis, Comitibus & Baronibus, (without any Knights, Citizens or Burgesses, not here mentioned) ut OMNES sine omissione in octavis Epipha. ni

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Epifnon cum ranfeptierti-Anulum AG. nibus atus, Parti-PUL-O:10 tibus es, & erant nanirunt: EBErunt. (copi efen-IEM ONn dideret lates ought sand nmees fignum Abibus, here

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nia Londoniis convenirent, Regia negotia tractaturi totum Kegnum contingentia. Quod audientes Magnates, regiis praceptis continuo paruerunt, credente se vel Imperialia vel alia ardua negotia provisuros. Venit igitur die Sancte Hillarii Londo nias INFINITA NOBILIUM MULTITUDO, seilicet, Regni totalis Universitas. When they were all assembled and fate in the Kings palace at Wellminster, Will am Kale, in the Kings name and behalf, demanded an ayde of money of them to supply his wants, to be put into the hands of such Treasurers as they should appoint, to be difburfed only upon the necessary affairs of the Realm: which Speech they hearing, expecting no such thing, were much offended, and murmuring at it, Indignantes responderunt, (and have wee not much more cause to doe and say so now?) se undique & sape, nunc vicesima, nunc tricesima, nunc quinquage sima gravari promittendo et persolvendo: As-(rentes, indignum nimis fore & injuriosum, permittere Regem Oc. ut à naturalibus hominibus suis , quasi à servis ultima conditionis, in detrimentum eorum, et alie. orum juvamen, tan tam pecuniam, tot toties, extorqueret argumentis. Quod fapius gravati, videbant alienigenos suis bonis saginati Statumque regni pra paupertate vacillare, et multiplex periculum imminere. Comes vero Cornubia Richardus, frater Regis, primus movit quastionum adversus Regem, increpans enm acritor super tanta Regni per eum nata desolatione: Et quod de die in diem adiaventis novis causis cavillatoriis, Nobiles ac naturales Barones suos, suis bonu spoliavit et quacunque poterit obradere, inconsulte hostibus Regni distribuit, ipsi Regi & regno insidiantibus. Quod ipse infinitos proventus et innumerabilem pecuniam in suo tempore colligerat, nec erat in Anglia Archiepiscopatus vel Episcopatus prater Eboracensem, Bathonieniem et Wintonieniem, qui non vacaverit (no tempore. Similiter insulit de Abbatibus et Comitatibus et Baroniis Custodiis & aliis escartisinec tamen thesaurus regius, qui deberet effe Regni robur et confidentia senserat incrementum. Quod cum Rex audiffet, cupiens murmur hoc fedare generale, pollicebatur sub jurejurando, se nunquam amplius Nobiles regni in urando lace Cere, vel molestare, dummodo sibi ad presens trice fimas

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tricesima pars mobilium Anglia benigne concessa, solveretur, Gr. Ret vero fuorum cupiens Baronum fibi gratiam conci. liare, fe ex tunc et demceptauicquid factum fuerat antea, de. dit se consiliis sidelium ac naturalium hominum suorum. Pra. terea, de hoc quod dicebatur, quod conabatur ea que concesse. rat et Chartis confirmaverat, per autenticum summi Pontificis infirmare: diceb. t Rex, hoc falfum effe, Et fi tale qued forte fuerat (uggestum, in irritum affirmavit, seque talia penitus revocare. Prateres, sereno vultu, & fontanea promisis voluntate, libertates Magna Tharta fuis fivelibus Reanf fut er tunc inviolabiliter obserbare, Et quia videbatur non penitus immunis à sententsa quam tulerat Archiepiscopus Stephanus; cum omnibus Episcopis Anglia in omnes violatores pradicta CHARTA, quam malo consilio freus, in parce laserat; fecit in publico innovare sententiam prataxatam, in omnes ejusdem Charia contradictores : Sic, ut si ille, per aliquem concestum rancorem forte eam non observaret, in latam sensen. wam gravius recidivaret. Unde factum est, ut omnium corda hac audientium fibi mirabiliter in verbo illo conciliavit. Whereupon, post multas desceptationes, quia se Rex humili. ans promisit indubitanter, se corum ex tunc et deinceps standum confilies, they granted him a 3 oth part of their movables upon certain limitations and conditions to be put into fuch persons hands, and disbursed only as they there prescribed; which yet were not observed.

* Mat: Paris, P. 505. 506. An. 1240

In the 24. year of Henry the 3d. in the Octaves of E. piphany, the Archbishops and Bishops, cum multis alife Mar. Westm. magnatibus, affembled at London, the Popes Legat being allo prefent, reponentes querimoniam coram Rege & "Curia sua, super variis injuriis et oppressionibus, et quoce tidianis desolationibus illaris Ecclesiæ per iniquum Re-"gis consilium, contra suas Chartas & Juramenta temere " veniendo, &c. Super quious injurits illatis, et diatim "multiplicatis, omnes se atterunt vehementer admirari, "cum ipse Rex toties juraverit, se jura ecclesiastica illiba-"ta conservare, ipsomet audiente & candelam tenente, "quod omnes Episcopi in violatores libertatum Ecclesi-"afficorum, fimul sententiam sulminabant; in cujus sen-"tentiæ

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"tencia confummatione, Rex, ut alii, fuam candelam ex-"tinxic inclinando. Ecerant contra Regem in querimoniis Episcoporum capitula circiter 30. Et eatenus pro-" ceffum eft, quod lata fit iterum fententia serribiliter ni-"mis in omnes Regis confiliarios, qui ejus animum ad prædicta enormia conabantur inclinare.

Anno 1242. the 26 of King Henry the 3d. "To- Mar, Paris, "tius Anglia Nobilitas tam Pralatorum quam Comicum p. 561,562,3 4
"& Baronum ecundum Regium praceptum, est Londini 563. Matth. "congregatum: Et quia audiverant, quod Rex eos tam in- Westm.p. 165. "stanter convocaverar, et toties eo modo cavillatorie sa-"tigaverar, conjurando, et sub poena anathematis firmiter d'inter le Hatuerunt, ne aliquis in concilio extorsioni pecu-"niari Regi facienda aliquo modo confentiret, &c. Igic tur regi cordis fui propolitum irrevocabile in propatulo "exponenti de transitu suoset vocatione Comitis de Mar-"chia, et argumentole auxilium pecuniare poltulanti; res sponderunt MAGNATES cum migna cordis amaricu-"dine; quod talia conceperat inconfultus, et talia effrons "impudenter postularar, exagitans et depauperans fide. eles luos tam frequenter, trahens exactiones in confequen-"tiam quafi a fervis ultimæ conditionis, et tantam pecu-"niam tories extorfit inutiliter difpergendam. Contra-"direcunt igitur Regi in faciem, nolentes amplius fic "pecunia sua frustratorie spoltart, Rex igicur, Romano-"rum ufus vertucis fallaciis, juffic ut in craftino expecta-" rent, voluntatem suam super hoc et aliis audituri. Et "in crastino, vocavit in secretam cameram suam singulation, "nunc hunc, nunc illum, more Sacerdotis pointentes vo-"cantis ad confessionem. Et sic, quos non potnit uni-"verlos, fingulos fingulatim enervatos fuis fermocinatio. " nibus conabacur aftutius enervare : peteniq; ab eis auxielium pecuniare, ait : Ecce, quid concesse ille Abbas mi-"hi in subsidium : ecce quid alius, & protendens rotulum, "in quo scriptum monstravit, quid ille vel Abbas vel Pri-"or, tantum vel tantum promifit se daturum: cum tamen " nullus eorum affensum præbuisser, vel ad notitiam cordis, devenisset: Talibus igitur tallis exemplaribus, &

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"verborum retiaculis, quamplurimos Rex cautius intracavit. Multi tamen steterunt, nullo modo volentes
recedere a communi responsione prout conjuraverant.
Onibus Rex in ira respondet, Erone perjurus? Juravi
Sacramento intransgressibili, quod transfretans jura mea
in brachio extento a Rege Francorum reposcam, quod sine copioso thesauro, qui a vestra liberalitate procedere
habet, nequaquam valeo. Nec tamen his vel aliis verbis
potuit aliquos muscipelare, quamvis, ut prædictum est,
se seorstm quemlibet per se conveniendum vocavit.

"Iterum, autem vocavit aliquot simul sibi familiariores, & affatus eos, ait: Quid perniciolum exemplum aliis "præbetis? Vos qui Comites et Barones et Arenui Mili-" tes eltis, non deberetis, etfi alii timeant, scilicet Præla-"ti ecclesia, trepidare, Avidiores cateris esse debere-"tis Jura Regni repolcere, et contra injuliantes Martia " certamina potenter experiri. Nostram partem solida. "re et consolari tenetur jus nostrum quod habemus, Mag-"natum vocatio cum certa promissione, exemplum de "Wallia, quod solet præterita suturis prospere continua-"re, ubi nuper sæliciter triumphavimus. Et qua fronte " poteritis me Dominum vestrum, ad tam arduum nego-"tium Reipublica procinclum, relinquere pauperem & " desolatum, cum tenear promissa de transitu meo adim-" plere, jurejurando strictius obligatus? Et cum ad noti-"tiam Universitatis perveniret, responderunt : Supra id " quod dici potest admiramur, in qua abyssum submersa « sunr innumerabiles pecuniæ, quas a diversis Magnatum "custodiis, variis elcaetis, crebris extorsionibus, tam ab " Ecclesiis pastore viduatis, quam Nobilium terris', præ-"confis donativis, stuporem in cordibus audientium ge-"nerantibus, Domine Rex emunxisti, quæ nunquam reg-" no vel modicum contulerunt incrementum. Præterea, "nuper Legatos quoldam, vel Legatorum fungentes offiecciis, in hoc Regnum advocasti, qui quasi racemos post " vindemiantea sibi reliquias residuæ pecuniæ colligerunt. "Caterum, nimis admirantur MAGNATES ANGLIÆ "UNIVERSI, quod fine corum confilio & affenin cam " arduum

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"arduum tam periculofum negotium es aggressus, fidem "adhibens fidem carentibus. Spretoque naturalium tuo-"rum favore, exponis te tam ancipitis fortunæ calibus. "Treugarum fædus, inter Regem Francorum & tu in ani-"ma tua captarum et juratarum, indiscolubiliter et invio-"labiliter usque ad terminum observandarum; quem ex "parte tua præfixerant præclari viri Comes Richardus " frater tuus, & Comes R. Bigod, inhoneste & impuden-"ter, non fine periculo anima tua, & fama lafione dif-"rumpis. Adhibuistis præsentiam tui corporis notabili-"bus ipsis Magnatibus ultra Marinis, contra dominum " fuum, Regem videlicet Francorum, calcaneum levanti -"bus eo ipio nulla fides est adhibenda, u pote de multi-" plici proditione notabilibus. His Rex auditis, in iram excanduit vehementem, jurans cum Sanctorum artesta-"tione, quod nullo revocaretur terrore, nullis verborum ambigibus circumventus, ab incopto propolito retardare-"tur, quin in octavis Paichæ naves aicendens, fortunam "belli in partibus transmarinis contra Francos imperier-"ritus experiretur. Et sic folutum est concilium, utrobiq; " reposita, vel occulta mentis indignatione.

"Postea vero, ne oblivio tenorem responsionis Baronum " deleret, in scriptum taliter hac redacta. Cum dominus " Eboracensis Archiepiscopus, et omnes Episcopi Anglia, "Abbates & Priores per le, vel per Procuratores suos, " necnon & OMNES COMITES, & fere OMNES BA-"RONES ANGLIÆ, ad mandatum domini Regis cons venissent apud Westmonasterium, die Martis proxima ante "Purificationem beata Maria, Anno Dom. 1242. Regni Henrici 3. Regis 26. audituri Domini Regis voluntatem et negocium, pro quo iplos mandaverar. Et idem "Dominus, Rex transmittens ad eosdem die um dominum "Eboracensem, et nobilem virum dominum Comitem "Richarduum, et dominum W. de Eboraco, Præpolitum " de Beverlaco, super voluntate Domini regis in negociis " suis, scilicet eisdem expositis per eosdem solennes nuncios; omnes Magnates de regno suo rogasset de consilio "ei dando, et auxilio faciendo, ad hareditatem suam & cc jura

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" jura iua perquirenda, in partibus transmirinis, qua spe-" Rabant ad Regnum fuum Anglia: tandem, dicti Epif-"copi, Abbates & Priores, Comites & Barones, magno " inter eos tractatu præhabito, inprimis Domino Regi per " prædictos Magnates dederunt confilium, videlicet. Quod . Dominus ipfe Rex expectaret finem Treugarum inter e eum et Regem Francea initarum. Et fi forte idem Rex " Francia contra formam earundem treugarum aliquas fe-"ciffet interprisas, tunc dictus Rex Anglia mitteret ad " eum solennes nuncios, ad rogandum, monendum et in-" ducendum ipsum Regem Francia, ut treugas initas te-" neret, et interprisas emendaret, fi quæ per ipsum,vel per " suos facta estent. Quod fi Rex Francia, facere contraa dicerer, libenter ad hoc confilium apponerent, pro posse " suo de auxiliis ei dando. Omnes ita unanimiter re-"sponderunt. Similiter, postquam suerat Dominus eo-4 rum, multories ad instantiam suam ei auxilium dederunt, " videlicet, tertiam decimam mobilium suorum, et postea "quintam decimam, et sextam decimam, et quadragesi-" mam, Carucagium, Hydagium et plura Scutagia, et post-" ea unum magnum Scuragium ad fororem fuam Imperae tricem maritandam. Postea vero nondum quatuor an-"nis elapsis, petit ab eis iterum auxilium, et tandem cum " magna precum instantia obtinuit tricessimam, quam ei " concesserunt, tali scilicet conditione, quodilla exactio, e vel alie precedentes, amplius non traherentur in confe-" quentiam. Et inde fecit eis Charram fuam. Et prærerea conceffic eierun Quod omnes Libertates contenta "in Magna Charta, er tunc in antea plenius tenerentur "per totum regnum funm & inde fect eis quandam par-" vam Charcam fuam, quam adhunc habent, in qua eædem "continentur. Præterea Dominus Rex concessit eis de " voluntate sua, et de consilio torius Barnagii sui, quod ctota p. cunia ex dicta tricelima proveniens, falva depo-" neretur in Castris Domini Regis sub Custodia quatuor " Magnatum Anglix, scilicet Comitis Warrannia, et alio-" rum,per quorum vilum et confilium recunia illa expen-"deretur ad dichi Regis & Regni ntilitatem, cum necesse pe-

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"effet. Et quia Barnagium nescit, nec audivit quod de " dicta pecunia per vilum vel confilium alicujus quatuor "Magnatum prædictorum aliquid expendatur, credunt "firmiter, & bene intelligunt, quod Dominus Rex ad-" huc totam habet illam pecuniam integram, de qua nunc se potest magnum habere auxilium. Præteria bene sciunt, " quod post tempus illud tot habuit escaetas, scilicet "Archiepilcopatum Cantuariensem, & plures Epilcopa-"tus Angliæ ditiores, & terras Comitum & Baronum, . & milirium de eo tenentium defunctorum, quod folum-" modo de illis escaetis debet ipse habere grandem pecu-"nix fummam, fi bene custodiatur. Præterea a tempo-"re dicta tricellima data non cellaverant Justitiarii itine. "rantes, itinerare per omnes partes Anglia, tam de pla-"citis forellæ, quam de omnibus aliis placitis, ita quod " omnes Comitatus Anglia, & omnia Hundreda, Civitates " & Burgi, & fere omnes villæ graviter amerciantur. Un-" de solummodo de illo itinere, habet Dominus Rex, vel "habere debuit, maximam fummam pecunia, fi perfol-" vatur, & bene colligatur. Unde bene dicunt, quod per cilla amerciamenta, & per alia auxilia prius data, omnes " de Regno ita gravan ur & depauperantur, quod parum s aut nihil habent in bonis, (and may not we now more truly fay fo, after to many years uncestant importable Taxes, Excizes, Impositions, Contributions, Exactions of all kinds, without any interruption, in far greater proportions than these amount to, and all sequestrations, fales of Delinquents, and others estates, not known in that age) "Et quia Dominus Rex, nunquam post tricessi-"mam datam (nor our present Rulers after all their Protestations, Declarations, Remonstrances, Votes, Leagues and Covenants to preferve our Laws, Liberties, Properties, Great Charters, and the Petition of Right, and all our contributions, Excises, Loans, or publike faith, &c.) "Cartam fuam de libertatibus tenuit, imo plus folito po-" frea gravavit (as now) & peraliam Carram eis concel-"lam, quod Exactiones hujusmodi non traherentur in "consequentiam; responderunt eidem Domino Regi L 2

"præcile Quob nullum ab passens et sacetent aurstum. A fir answer for all our Nobies and Commons in this age, 'a after so many years Taxes, Imposts, Excises, sar heavier than any complained of in that age. "Veruntamen quia Dominus corum est, sic se gerere poterit erga eos usque ad sinem dictarum treugarum, quod tunc bonum appoment constitum pro poste suo. Et cum dicti Magnates "Nuncii, ipso Domino Regi nunciassent Responsium, reduntes ad Barnagium, dixerunt, quod in parte sufficiments Domino Regi dederunt responsium.

I have transcribed these memorable passages of this Parliament out of Matthew Paris thus largely in his own words, for sundry reasons pertinent to my

Theam.

r. To prove, that the Arcbbishops, Bishops, Abbots, Peers, Earls, Barons Lords, were the only Members of this, all the former, and most other succeeding Parliaments in Henry the 3 his reign, this Historian, (who is most exact) making mention of them only, both in the summons to their debates in Parliament, and this their Remonstrance in Parliament, even in this case of ayds demanded, and not of any Knights, Citizens, or Burgesfes elected by the people, of which there is not one tyllable.

2. To manifest, that the Earls, Lords, and Barons of the Realm, have most unanimously, resolutely, magnanimously opposed our Kings in Parliaments in their unjust designs, and in Ayds, Taxes demanded, and earnestly begged, importuned from them without any effect, resisting our Kings therin to their faces, and withstanding all their wiles, pollicies, King-crass, and private sollicitations perfwasions to enervate their resolutions, and lay unnecessary burthens on the people, which some other subsequent Presidents will further ratisse.

3. That they were the Granters of all publike Ayds to the King, which they granted very rarely, and that upon extraordinary pressing occasions, especially in case offormain wars, though to recover the antient Rights and

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Dominions of the Crown, and that in very small moderate proportions, with special provisoes, how they should be imployed, and that they should not be hereafter drawn into consequence, which other Presidents will further evidence.

4. That they were very vigilant, active, zealous in complaning against, examining all violations of the Great Charters of their liberties by the King and his Officers: and reconfirming them by new promulgations, Oaths proclamations, excommunications, refusing to grant any Ayds till this were effectually done, or promised by our Kings: which the subsequent examples will further clear.

5. That no wars ought to be made nor truces violated but by their Council and advice: and that they deemed Truces fworn even to forain Enemies most facred, indiffoluble, inviolable, and the violation of them most dishonest, impudent, perilous to souls, and hurtfull to the reputation even of Kings themselves: much more then must Oaths, Leagues, and solemn sworn Covenants of Subjects to their natural Kings, and Kings to their Subjects be inviolable, indissoluble, and the violation of them most dishonest, shamefull, persidious, perillous, hurtful to mens Souls and reputations; and that no faith or trust is to be given to persidious Traitors, Nobles, against their natural King.

Anno Dom, 1238. King Henry being wholly counselled by Foreiners, marying the Nobles of the Realm to them, neglecting his natural subjects, & milgoverning the Realm; thereupon Earl Richard his Brother, and the rest of the Nobles publikely reprehended and opposed him. Which Mat. Paris thus relates.

Comes Richardus cum hoc audisset matrimonium claude-Mat. Parisalinum, eo scilicet nesciente, vel assensu Magnatum terra non P. 451.

interveniente, sirmatum fusse, nimia ira succensus meritò, prasertim cum Rex sapisus perjurasset, si se nil arduum fasturum, nisi de consilio naturalium hominum suoyum, & pracipueipsius. Insurgens igitur Regem aggreditur verbis commonitoriis, et comminatoriis, gravem movens adversus Regem quastionem.

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quastionem et calumniam, eo quod mens consiliis alienigenarum quos amovere penitus perfuraverat, eliam ardua negotia regni perperam tractaverat, et Simonem de Monte torii, et I. Comitem Lincolniensem aliis a latere suo amotis, non tantum audierat, sed contra nobilium conniventiam matrimomia subdola procuraverant. Simon, ut pradictum est, illicite inter eum et Comitissam Pembrecia fororem fuam, et Johannes Comes Lincolniensis inter filium Comitis Bolonia. scilicer Richardum de Clare, et filsam ejusdem Comttis I, Rege subducto procuraverant. Insurgemi autem illi Comiti Richardo, adduntur Comes Gilbertus Marescalluszet omnes Comites et Barones Anglia, cum croibus et populo generaliter. Et sperabatur certiffime tunc quod ipfe Comes Richardus esset et liberaturus terram, tam a Romanorum quam aliorum alienigenarum misera qua premebatur, servitute, et omnes a puero usque ad hominem senem crebras in ipsum benedictiones congesserunt, nec adhe fit aliquis Regi, nisi solus Comes Cancia H. de quo non timebatur, quod ideo quid siniftri possit evenire, tum quia se juraveras nunquam arma gestajurum, tum propter discretionem suam, multis experimentis examinatam. Quod comperiens Rex animo et vultu nimis consternatus, Nobilium terra singulos per nuncios suos interogavit deligenter, sciscitando, si in hunc vel illum in hac jam exorea tempestate possit de adjutorio confidere? Cui responderunt universi, pracique Cives Londinenses, asserendo universaliter quod honore fuo, et commodo Regni procur atum est circum pette, quod inospiebatur ab ipfo Comite R. licet ipfe Rex falubri confilio eins non acquiesceret, unde incapta nullo modo impedirent. comperiens Legatus, summam adhibuit, imminere videns pericula diligentiam, ut Regem suis naturalibus hominibus reconciliaret, secreto admonens Comitem R. & replicans, quod ipse qui capitaneus hujus impetus factus est. Deinceps ab incapto desisteret, promittens regem ei umpliores possessiones collaturam, et Dominum Papam collatas confirmaturum; addens quod si omnes terra in regem insurgerent, ipse, qui frater ejus cum eo contra omnes stare baberet indefessus. quod respondit Comes R. Domine Legata, de terris laicorum et earum confirmationibus nil ad vos, de rebus autem Ecclesia. /ticis

ficis cur am geratis . Nec miremini , fi status Regni moveat me, cum sim haves solus apparens. Rex enim cum fere omnium Episcopatuum terra, et multarum escaetarum custodi. as habuit, nullum tamen the faurus e jus fentit ad Regni tuiti. ones incrementum, cum tamen undique varies vallemur iaimicis. Praterea admirantur nonnulli, quod Rex qui maxime auxilio et discretione indiget, discretorum vestigia non settatur. Non Imperatoris, cui fororem nostram, cum magna pecunia dedimus, sperantes id nobis profuturum, qui sola sua conjuge retenta, duces illius nobis remisit, nulli corum terras vel the saurum conferens, cum tamen abundaret locuples & opulemus. De Rege autem Francorum simile potest exemplum recitari, cui soror Regina nostra matrimonio primogenica copulatur. Rex autem noster Anglia e converso omnes uxoris [na affines, et consanguineos, terris, possessionibus et thefauris faginavit, et sic se maritavit, ut ne thefauro plus duaretur, imo potius privaretur, ne militari. anxilio, fi opus emerge et, robor aretur. Praterea, reddins et beneficia Ecclesiastica, a piis prdecessoribus nostrus nostris collaia, precipue que contulerunt antecessores nostri viris religiosis; permittit, quasi spolia diripi, et alienigenis, cum abundet ipsa terra viris idoneis distribui, et sit Anglia quasi Vinia sine maceria, quam vindemiant omnes qui pretergrediuntur viam.

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Convenerunt igitur Magnates die statuto Londini, super his diligenter tractaturi. Et venerunt multi aguis et armis communiti, ut si Rex circumventus per levitatem recalcitrar et ad pramissa complenda cageretur. Ibi seitur post multas multorum deceptationes, se subject Rex quorundam provisioni

de gravioribus viris, jurans se corum provisionis adquiescere. Quod et factum est, et in scripta redactum, et appensa sunt tam Legati quam aliorum Magnatum Sigilla, omnibus in

So in the Parliament held by King Henry, Anno 1242,

communi manifestanda.

and 1248. The Archbishops, Bishops, Priors, Earls, Barons and Gentlemen assembled to it, in like manner boldly and joyntly reprehended the King for favouring Aliens, wasting his money upon them, following their advice, and oppressing, neglecting, impoverishing, exhausting, his Natural Subjects, as you may read at large in Mat. Paris, p. 560, 561, 562, 719. overlarge to transcribe.* The same year the king rashly commanded that wil. de Ros, (who deferted him in his wars in France, out of meer want of monies, offering to pawn his lands to the King, if he would supply his necessities, which he refused to doe)" de terris suis licet sine judicio parium suorum "diffeiseretur. Quod videbatur cunctis INJUSTUM "ET TYRANNUM. Whereupon he was sharply reprehended by his Brother Earl Richard, who with other Nobles left him in discontent upon this occasion, and re-

turned into England.

" Mar: Paris,

* Mat. Paris

P. 567,

* King Henry the 3. Anno 1244, the 28 year of his p. 619, 620, reign, lummoned a Parliament of the Nobles at London, 621, 624. thus recorded by Matthew Paris. Convenerunt Regia submonitione convocati Londinum MAGNATES TOTIUS REGNI, Archiepiscopi, Episcopi, Abbates, Priores, Comites & Barones: in quo Concilio petist Rex. ore proprio, in prasentia Magnatum in refectorio Westmonasteriensi auxilium sibi fieri pecuniare, sub silentio prateriens propositum suum de Rege Scotia potentur impugnando. In propatulo tamen manifestans, quod anno transacto transfretaverat in Gasconiam de consilio eorum, ut dicebat, ubi tenebatur aris alieni non modica quantitate, nec totuit nifi efficacissime sibi ab illis gener aliter subveniretur, liberari. Cui fuit responsum, quod super Loc tractarent Recedentesque Magnates de refectorio, convenerunt Archiepiscopi & Episcopi, Abbate, & Priores seorsum per se, super hoc diligenter tractaturi. Tandem requisiti

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quisiti fuerunt ex parte corum Comites & Barones; si vellent fais consilies unanimiter consentire in responsione & provisione Super bis facienda. Qui responderunt, quod fine communiuniver state nihil facerent. Tunc de communi assensu elect: fuerunt ex parte Cleri, electus Cantuarienfis, Wintonienfis, Lincolnienfis, & Wigornienfis Episcopi, ex parte Laicorum, Richardus Comes , frater Domini Regis, Comes Bigod , Comes Legria Simon de Monteforti, & Comes Mareschallus W. ex partibus Baronnm, Richardus de Muntfichet, & Johannes de Bailliol, & de fantto Edmundo, et de Rameha Abbates, ut quod isti duodecim providerent in commune recitaretur, nec aliqua forma Domino Regi oftendaretur au-Moritare duodecim, nift omnium communis affentus interbeneret, Et quia Charta libertatum, quas Dominus Rex olim concesserat, & pro cujus conservatione Archiepiscopui Cantuarienfis Edmundus juraverat, fide jufferat & certissime pro Rege promiferat, nondum extitit observata, & anxilia qua toties concessa fuerunt Domino Regi ad nullum profeltum Regis vel regni devenerant. Et per defectum Cancellarii Brevia contra justitiam pluries fuerunt concessa, petitum fuit, & secundum quod eligerent, Justiciarins & Cancellarius fierent, per quod statum Regni solidaretur, ut solebat. Et ne per compulsionem Concilii aliquod novum statuere videretur, noluit (Rex) petition i Magnatum consentire; sed promisit, se emendaturum qua ex corum parte audierat, unde datus fuit terminus eis usque in tres septimanas Purificationis beata Virginis, ut ibidem iterum tunc convenireot. Quod fi mera voluntate Rexinterim tales Consiliarios eligeret, & taliter jura requi tractaret, quod Magnates contenti essent ad terminum illum super auxilio faciendo, responsuri providerent, ita tamen quod si aliqua pecunia eidem concederetur, per dictos duodecim expenderetur ad commodum Regni. Et cum per plures dies protraberet eos Dominus Rex, volens eos quasi tedio affector flectere ad confensum, ut sine termini prorogatione ad auxilium contribuendum consentirent, multiplic ter convent eos nec circumvenit, quia Magnates hoc prudenter perpendentes IMMOBILITER, IN PROPOSITO PERSTI-TERUNT. Tunc Dominus Rex demme frerans saltem Cles

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Clerum ad desiderium sum inclinare, convocatis tralays, porrexit illis Papales apices in publico, (recorded at large by Matthew Paris) commanding and perswading the Prelates, Abbots and Clergy to supply the Kings necessities, and grant him an aid, with particular Letters to all the Prelates from the Pope to the like effect. The Prelates notwithstanding all the Kings private sollicitations and policies, resulted to return any answer to the Popes Letters, till the time of the Londs reassen bling or todo any thing but by Common Counsel and consent of the whole Parliament, from which they would not be divided, as you may there read at large. The Nobles and Great men meeting again at the time prefixed agree on these ensuing Provisoes, after long debate, which they tendred to the King for his assent, denying to grant him any aid of

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mony, unless he consented to them.

De libertatibus alia vice empiis, concessis, & per chartam Domini Regis confirmatis, quad de catero observentur. Ad cujus rei majorem securitatem , fiat noba charta que super has specialem faciet mentionem. Et ab omnibus Pralatis solenniter excommunicentur, qui scienter & prudenter libertates a Domino Rege concessas, vel impugnare vel impedire, quo minus observentur, prasumpserint, & reformetur status eorum , qui poft ultimam conce sionem in libertatibus suis lasionem incurrerunt. Et quia propter virtutem [acramenti præstite, nec non proper timorem sententia lata a sancto vio Edmundo, quod ea vice prom fum fuerat, hactenus non ex fitit ob (ervatum, ne hujs (modi periculum de catero eveniat, & sic frant novissim a poje a prioribis de communi affensu quatuor eligantur Potentes et Pobiles De Discretioribus totius regnt, qui int de l'oncisto Domini Regis, et jurati, quod negotia Domini Regis et Regni fidelitur tractabunt, et fine acceptione per sonarum, omnibus justis:am exhibebunt. quentur Dominum Regem, & fi non omnes, semper duo corum ad nimus prafentes fint, sit audiant querimonias singulorum;ut patientibus injuriam celeriter possint subvenire. Per visum & cestimonium corum trattetur Thefaurus Domini Regis, & pecunia ab Universis Specialiter concessa, et ad commodum Relasis,

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gis et Regns expendatur, facundum quod melius et utilius viderint expedire , Ct . erunt Libertatum Conferbatoges, Et sient de omnium affensu eliguntur ; sie etiam fine communi affersu non poterit aliquis corum amoveri, ant suo officio privari. Uno etiam sublato è medi, de affensu et electione trum, loco illius alius substituatur infra duos menfes. Nec fine ipfis, fed eum neceffe fuerit, et ad corum inftan. tiam, iterum conveniant Univers. Brevia contra Regem & consucendinem Regni impetrata, penitus revocentur et aboleantur. Memorandum quoque de sententia ferenda in contra. dictores. Item, de obligatione Sacramenti in invicem. Item, de Itinere Justiciariorum, Justiciarius & Cancellarius abomnibus elegantur. Et quia frequenter debent effe cum Domino rege, poterint effe de numero confervatoram. Et si aliquainterveniente occasione Dominus Rex abstulerit sigillum suum à Cancellario, quicquid fuerit interim sigillatum, irritum habea. tur et inane. Deinde Cancellario fiat restitutio. Nullus substimmenr Cancellarius, vel Justiniarius, nisi solummodo per solennem et universalem omnem Convocationem, et liberum afsensum. Duo fusticiarii eligantur in Banco. Duo itidem Barones in Scaccario constituantur. Unus quoque ad minus Ju-Sticiarius Judaorum deputatur. Hac vice autem per communem univer salem liberamque omnium electionem frant et con-Stituantur omnes Officiarii pradicti : ut quemadmidum omnium negotia sunt tractaturi, sic etiam in corum electione concurrat affensus singulorum. Et postmodum cum necesse fuerit alius loco alicujus ipforum pradictorum substitui aut subrogari, per provisionem et auttoritatem quatuor illorum Consilia. torum pradictorum fiat illa substitutio vel subrogatio. Hacte. nus suspecti, aut minus necessarii à latere Domini Regis amoveantur. Et dum hujusmodi negotia utilia nimis Reipublica in Spacio trium hebdomadarum diligenter pertractassent Magnates, hostis humani generis, pacis perturbator, et Schismatum suscitator Diabolus, hac omnia per Papalem avaritiam impedivit, &c. Postea renovata fuit petitio Domini Regis, super auxilio pecuniari sibi faciendo. Circa quod de die in diem convenit eos Dominus Rex, tum in propria persona, tum per internuncios solennes; per quos promisit, se Libertates quas juraverat in Coronatione sua, super quibus CHARTAM

confecerat integerrime servaturume Ad quorum etiam tuitionem, rogavit ut singuli Episcopi in Diocasibus suis sententiam ferrent in ipsum, et omnes qui contra memoratas Libertates venirent in aliquo articulo. Tandem unanimiter, cum nullo modo ad aliam formam possent slecti, concesserunt Domino Regi ad maritandam siliam suam primogenitam, de omnibus qui tenent de Domino Rege in capite, de singulis scutis viginti solidos solvendos, scilicet, medietatem ad

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Pascha, et aliam ad festum S. Michaelis.

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"trectarer, &c. Et eum propoluillet Dominus Rex, pe-"cuniare auxilium poltulare, redargutus est graviter su-"per hoc; quod non erubescebat tunc tale juvamen & auxi-"lium exigere: præfertim quia quando in ultima tali ex-" actione, cui Nobiles Anglia vix consenserant, confecit "Chartam fuam, quod amplius talem non faceret Magna-"tibus suis injuriam et gravamen. Repræhensus est eriam "gravistime, uper indiscreta alienigenarum vocatione, oc. And for all other his misdemeanours there specified at large. . Hac cum audiffet Dominus Rex, confusus in se-" metiplo erubuit, sciens hac omnia esse verissima. Promilit ergo verissime ac certissime se hac omnia gratanter emendaturum, sperans per talem humilitatem, licet "fictam, omnium corda poltulationi tua promptius incur-" vare. Cui inito confilio crebrius in talibus promissis u-"niversitas irretita, respondit : Hoc videbitur, et infra "breve tempus apparebit manifeste: Expectabimus pa-

"tienter, et prout se gerit Dominus Rex, et se habebit versus nos, et nosei in omnibus obtemperabimus, Di-

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" lata igitur funt omnia et in respectu posita, usquad quin-"denam Sancti Johannis Baptilla. Sed Dominus Rex interim vel suo Spiricu, vel aulicorum suorum, qui nol-"lent fuam enervari potestatem, induratus, & contra fu. " os homines magis exaspetatus, minimum emendationis " in prædictis excessibus, fidelibus suis, secundum quod romifi, curavit/impendere. Whereupon they would grant him no aid at all. When he could not move the Nobles all assembled together; † the next year he sent beg. Mat. Weftm, ging Letters to every one of the Nobles apart for ayd, nor as a duty, but meer gratuity to carry on his wars against the King of France, sedinihil ex inde à circum spectis nisi derisum

† Mat. Paris P. 732. P. 233,234.

" Mar, Paris p.821, to.828, Mar. Westm. P.252.

et sibilum suscitavit. King Henry, Anno 1252. the 35. year of his reign, afsembled all the Prelates to London, and demanded of them a Tenth for 8. years granted him by the Pope; which they refused to grant, taxing him for oppressing his Realm and rhe Church with various and innumerable exactions, and depriving them of their antient and accustomed Liberties and their money against his Oath, and primitive Protestation: The Lords and Prelates, after fundry publike and privat Discourses and devices then used to draw them to a Contribution (recorded at large in Mat. Paris) chiding and telling him to his face; "afferences ipfum natum " tantum ad pecuniam emungendam. Soluto igitur cum "Regis, Cleri et Magnatum indignatione Concilio, Rex "iram et odium præcordiale thesaurizavit, credens hæc " omnia sibi facta et dicta in spiritu maligno et exolo, " malignandi materiam parturire. About the same time, Habella Countels of Arundell, coming to the King about a Wardship, and he denying to doe her justice therein, though a woman, gave him this manly and bold answer. "Domine Rex, quare averiis faciem tuam à Justicia? Jam " in curia tua quod justum est, nequit impetrari. Medius " inter Dominum & nos constitueris, sed nec teipsum nec " nos sane regis, nec ecclesiam veritus es multipliciter " perturbare, quod non tantum in præsentiarum sed mulcoties est aperta. Nobiles insuper Regni variis modis " vexare

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vexare non tormidas vel erubelcis Quod cum audiller Rex "corrugans nares, et sublannans, voce dixit elevata: Quid "elt hoc, O Domina Comitista? confecerunt ne Magna-"tes Angliæ chartam, et pepigerunt tecum, ut fieres eo-"rum quia eloquens es, advocata et prolocutrix? Au quod "Comitilla licet juvencula, non tamen juveniliter respondir. Nequaquam mihi, Domine, Regni tui Primares ci chartam confecerunt, led tu CHARTAM quam confe-"cit pater tuus, et tu eam concellilli, & juralti observare "fideliter et irrefragabiliter, et multoties ut eam obser-"vares à fidelibas tuis pecuniam de libertatibus obser. " vandis corum extorsilti, led tu semper eis impudens " transgressor extitisti. Unde fidei læsor enormis & Sa-"cramenti transgressor manifestus esse comprobaris; "Ubi make the self-"Libertates Angliz toties in scripta redacta, toties con- fame demand "cessa, totiesque redempta? Ego igitur licet mulier, and appeal " omnesque indigenæ et naturales ac fideles tui appella- now? "mus contra te, ante tribunal tremendi judicis. Et erunt "nobis testes cœlum & terra, quoniam inique nimis nos " tractas infontes, et nos Deus ultionum Dominus ulcif-" catur. Ad hac Rex siluit consusus, quia dictante propria " conscientia cognovit, quoniam à tramite veritatis non "exorbitavit Comitissa; et ait : Nonne postulas gratiam, "eo quod mihi cognata fis? at illa: Ex quo mihi quod jus "expostulat denegasti, quomodo spem concipiam, ut mi-" hi gratiam facias postulanti? fed et contra illos ante fa-"ciem Christi appello, qui te falcinantes et infatuentes, "confiliarii tui funt, et te a via veritatis avertunt, fuis " tantummodo commodis inhiantes. His autem auditis " Rex filuit, fatis civiliter redargutus; Comitiffa autem " nec licentiara, nec licentiam postulara, magnis labori-"bus et sumptibus inaniter factis, ad propria remea-" vite

Anno 1253, the 37 of Henry the 3d. In quindena Paichæ menie Aprilis tota edicto Regio convocata Angliæ Mar. Parisi Nobilitas convenit Londini, de arduis Regni negotiis Mar. Westm.
isimul cum Rege tractaturi. Extiterunt igitur ibidem p. 254.1
cum Comitibus & Baronibus quamplurimis, Archiepis-

er copus

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"RAVIT

" copus Cantuarientis, & Epilcopi Anglia fere omnes,&c. "Et cum de magna Regis indigentia, qui postulavit sibi " peregrinaturo infinitam exhiberi pecuniam, diu et ina-"niter tractassent, et hine inde nuncios utrobique cord " sensus haberetur, contigit ut ex parte Episcoporum & comnium Prælatorum, destinarentur Archiepiscopus "Cant: et Carliolensis, et Sarisburiensis Episcopi et ele. "Aus Wintoniensis, ad persuadendum et inducendum "Regem, ut permitteret, prout sapius solenniter juran-" do promisic, lanctam Ecclesiam suis gaudere libértatibus, " maxime de electionibus, in quibus præcipue ecclesiastica "constat libertas. Nullibi enim cum in Ecclesiis Cathe-"dralibus velConventualibus potest aliquis promoveri nisi " per Regem intrusus, &c. Quod fi hunc et alios mores, "SECUNDUM MAGNÆ CHARTÆ DE LIBERTA-"TIBUS CONFECTÆ TENOREM, emendaret, ipfi "ulque ad gravamen magnum petitionibus fuis inclina-Quibus Rex: Verum est, et inde doleo, & pa. " nitet me graviter hoc fecisse. Instanter igitur procuran-" dum, ut et talia peracta corrigantur; et amplius simiilia non perpetrentur. Et vos in hoc mihi fitis coadiuto-" res, ne sic promoti cum subditis condemnentur, &c. "Tandem protracto tempore diuturno et multis re-"volutis disceptationibus, post quindecim et am. "plius dierum continuationem, in hoc residit om-"nium unanimus consensus; ut voluntas Regis peregris " naturi et ideo pia, non penitus suo desiderio fraudareetenr, nec Ecclesiæ vel Regni status enorme pateretur "derrimentum. Concessa est igitur Regi decima pars " proventuum ab Ecclesia recipiendo, cum iter Hieroso-" lymitanum per vilum Magnatum arriperet, in viaticum " diftribuenda, per triennium, in succursum Terræ san-"Az contra Dei inimicos, & a militibus scutagium, illo " anno, scilicet ad scutum tres Marce ; et Rex bons fide .. "& ine alique cavillatione, "promifit fe CHARTAM "MAGNAM ET OMNES EJUS ARTICULOS FI-"DELITER OBSERVARE: Quam tamen a multis re-" troactis annis, Pater ejus Rex Johannes TENERE JU-

Walfingham Ypodig. Neuftr.p.6s. Gronz, et poltes multoties, unde infinitam emunxit pe-

"cupiam. Tertio igitur die Maii, in majori aula Regia

" westm. sub præsentia & assensu Domini Henrici Dei " gratia Regis Anglia illustris, & Dominorum Ri. Comi.

u is Cornubie frattis fui , & Ri. Comitis Norfolkie & " Suffolkia Mareschalli Anglia , H. Comitis Herefordia ,

4. & Comitis Oxonie, I. Comiris Warwicia, & aliorum

" Optimatum Regni Angliæ; Nos B. divina milericor-

"dia Cant. Archiepulcopus, totius Anglia primas, F.

"Londinentis, H. Elientis, R. Lincolnientis, W. Wigor-

inienfis, W. Norwicenfis, P. Harefordienfis, W. Sa-

"risberientis, W. Dunelmentis, R. Exonientis, S. Car-· leolenfis, W. Bathonienfis, L. Roffenfis, T. Mene-

e vensis Episcopi, Pontificalibus indutis, candelis ac-

cenfis, in transgreffores libertarum, & Ecclesiatticorum,

" & liberratum consuerudinem Regni Anglia, & praci-"pue earum que continentur IN CHARTA LIBER-

TATUM REGNI ANGLIA, ET CHARTA DE

FORESTA, excommunicationis sententiam solenniater culimus sub hac forma. . Auctoritate Dei Omnipo-

centis, & Filii, & Spiritus Sancti, & Gloriola Dei Ge-

" netricis, semperque Virginis Maria, & beatorum A-

of postolorum Perri & Pauli, omniumque Apostolorum,

« & beat i Thoma Archiepiscopi & Martyris, omniumque

Martyrum, beati Edwardi Regis Anglia, omniumque

nes,&c. vit fibi et inae cor. rum & fcopus et eleendnm juranatibus, fiaffica Catheeri nifi mores, RTAet, ipfi clina-& pæ. uranfimidjuto-, Sec. is ream. om. regr idareerecur pars rofoticum fan-1, illo fide .

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s re. Ju-VIT

"Confessorum arque Virginum, omniumque Sanctorum "Dei, excommunicamus, anathematizamus, & a limine fanda matris Ecclesia sequestramus, omnes illos qui d'amodoscienter, & malitiole Ecclesias privaverint vel 6 spolizverint suo jure. Item omnes illos qui Ecclesia-46 flicas libertates, vel antiquas Regni confuerudines pro-"batas, & præcipue libertates, & liberas consuetudines QUE IN CHARTA COMMUNIUM LIBERTA-"TUM ANGLIÆ, ET DE FORESTA CONTINEN-"TUR, Concessis a Domino Rege Anglia Archiepis-A copis, Episcopis, & cæteris Angliæ Prælatis, Comitibus, Baronibus, Militibus, & libere tenentibus, qua-"liunque

confecerat integerrime servaturums. Ad quorum etiam tuitionem, rogavit ut singuli Episcopi in Diocasibus suu sententiam ferrem in ipsum, et omnes qui contra memoratas Libertates venirent in aliquo articulo. Tandem unanimiter, cum nullo modo ad aliam formam possens slecti, concesserunt Domino Regi ad maritandam siliam suam primogenitam, de omnibus qui tenent de Domino Rege in capite, de singulis scutis viginti solidos solvendos, scilicet, medietatem ad

Pascha, et aliam ad festum S. Michaelis.

Et cum relatum effet Domino Regi, ut ad memoriam hac quam praterita reduceret, recordatum est ei, quod similia a su. is fidelibus, quos fovere debuit, non depauperare truculenter et ane solutione promissorum, eisdem extorserat. Fost cartionem Bedefordix ftatim concessium est Carucagium, de tota Anglia, scilicet, de qualibet caruca duo solidi Anno sequenti, Quintadecima omnium mobilium. Iterum, iturus in Britanniam cepit non modicam pecuniam à Pralatis etiam & vir is Religiosis, Burgensibus & Judais. Post redicum suum de Britannia, cepit Sentagium, scilicet de Seuto tres marcas. Item postea concessa suit Quadragesima pars omnium mobili-Item postea Trigelima pars omnium mobilium. Item quando maritavit fororem suam Isabellam domino Imperatori Frederico, cepit dominus Rix ad maritagium Juum Carneagium, videliset, de qualibei Carnea anas marcas. In nativitate autem filii (ui, in magnum dedecus sui, multa munera qua ad magnam summam pecunia ascenderunt, biolenter & im. pubenter ertozat. Item iturus in Galconiam, cepit à Pralatis, viris Religiosis, Burgensibus & Indais, et à quibuscunque potuit aliquid abradere, pecuniam multam, imo pene infinitam. Rediens autem à Casconia inglorins & seductus, juffit ut Magnates et Pralati ipfi occurrerent etiam uf q ad mare; qui ibidem illum din expettantes frustra, tandem ipsum in muneribus multis et impreciabilibus exceperunt. Similiter et cives Londinenses & alii. Et qui munera nobilia compertus est non contulisse, aliquo argumento redargutus, damnificabatur. Qualiter autem pro hac prasenti contributione et omnibus alies promissa es pacta adimplebat Rex, noveris ille qui wihil ignorus. Thus bold, resolute, plain dealing were the Earls

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" Mar. Paris p. 821, to. 828. Mar. Westm. P.252.

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nulodis xare "vexare non formidas vei erubeicis Quod cum andillet Rex "corrugans nares, et subsannans, voce dixit elevara: Quid "elt hoc, O Domina Comitida? confecerunt ne Magna-"tes Angliæ chartam, et pepigerunt recum, ut fieres eo. "rum quia eloquens es, advocata et prolocutrix? Au quod "Comitiffa licet javencula, non tamen javenditer respondie. Nequaquam mihi, Domine, Regni tui Primates chartam confecerunt, sed tu CHARTAM quam confe-"cit pater tuus, et tu eam concellilli, & juralti observare "fideliter et irrefragabiliter, et multoties ut eam obser-"vares à fidelibis tuis pecuniam de libertatibus obier. "vandis corum extorsitti, sed tu semper eis impudens "transgressor extitisti. Unde sidei læsor enormis & Sa-"cramenti transgressor manifestus esse comprobaris. * Ubi "May we not make the self-"Libertates Anglia toties in scripta redacta, toties con- fame demand "cesta, totiesque redempta? Ego igitur licet mulier, and appeal " omnesque indigenæ et naturales ac fideles tui appella- now? "mus contra te, ante tribunal tremendi judicis. Et erunt "nobis testes cœlum & terra, quoniam inique nimis nos "tractas infontes, et nos Deus ultionum Dominus ulcif-" catur. Ad hæc Rex filuit confusus, quia distante propria " conscientia cognovit, quoniam à tramite veritatis non "exorbitavit Comitissa; et ait : Nonne postulas gratiam, "eo quod mihi cognata fis? at illa: Ex quo mihi quod jus "expostulat denegasti, quomodo spem concipiam, ut mi-" hi gratiam facias postulanti? sed et contra illos ante fa-"ciem Christi appello, qui te fascinantes et infatuentes, "confiliarii tui funt, et te a via veritatis avertunt, fuis " tantummodo commodis inhiantes. His autem auditis " Rex filuit, fatis civiliter redargutu; Comitiffa autem " nec licentiara, nec licentiam postulara, magnis labori-"bus et sumptibus inaniter factis, ad propria remea-

"vit.

Anno 1253. the 37 of Henry the 3d. In quindena Pai
« chæ mente Aprilis tota edicto Regio convocata Angliæ Mat. Pariso.

Nobilitas convenit Londini, de arduis Regni negotiis Mat. Westm.

fimul cum Rege tractaturi. Extiterunt igitur ibidem p. 254.]

"cum Comitibus & Baronibus quamplurimis, Archiepis-

" copus

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" copus Cancuarientis, & Epilcopi Angliæ fere omnes,&c. "Et cum de magna Regis indigentia, qui postulavit sibi " peregrinaturo infinitam exhiberi pecuniam, diu et ina-"niter tractassent, et hinc inde nuncios utrobique cor-" sensus haberetur, contigit ut ex parte Episcoporum & omnium Prælatorum, destinarentur Archiepiscopus "Cant: et Carliolensis, et Sarisburiensis Episcopi et ele-"Aus Wintonienfis, ad persuadendum et inducendum "Regem, ut permitteret, prout sapius solenniter juran-"do promisit, sanctam Ecclesiam suis gaudere libertatibus, " maxime de electionibus, in quibus præcipue ecclefiaftica constat libercas. Nullibi enim cum in Ecclesiis Cathe-"dralibus velConventualibus potest aliquis promoveri nisi " per Regem intrusus, &c. Quod si hunc et alios mores, "SECUNDUM MAGNÆ CHARTÆ DE LIBERTA-"TIBUS CONFECTÆ TENOREM, emendaret, ipfi "usque ad gravamen magnum petitionibus suis inclina-Quibus Rex: Verum est, et inde doleo, & pa-" nitet me graviter hoc fecisse. Instanter igitur procuran-" dum, ut et talia peracta corrigantur; et amplius simiilia non perpetrentur. Et vos in hoc mihi fitis coadiuto-" res, ne sic promoti cum subditis condemnentur, &c. "Tandem protracto tempore diuturno et multis re-"volucis disceptationibus, post quindecim et am. "plius dierum continuationem, in hoc residit om-"nium unanimus consensus; ut voluntas Regis peregri? er naturi et ideo pia, non penitus suo desiderio frandare-"tur, nec Ecclesia vel Regni status enorme pateretur "dettimentum. Concessa est igitur Regi decima pars " proventuum ab Ecclesia recipiendo, cum iter Hieroso-" lymitanum per vilum Magnatum arriperet, in viaticum "distribuenda, per triennium, in succursum Terræ san-"Az contra Dei inimicos, & a militibus scutagium, illo "anno, scilicet ad scutum tres Marca; et Rex bona fide, " & fine aliqua cavillatione, * promifit fe CHARTAM Walfingham "MAGNAM ET OMNES EJUS ARTICULOS FI-"DELITER OBSERVARE: Quam tamen a multis re-Neuftr. p. 61. " troactis annis, Pater ejus Rex Johannes TENERE JU-"RAVIT

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"RAVIT, & imiliter qui præiens ett in susceptione Co-" ronz, et poltes multoties, unde infinitam emunxit pe-Tertio igitur die Maii, in majori aula Regia «cupiam. " Westm. sub præsentia & aslensu Domini Henrici Dei "gratia Regis Anglia illustris, & Dominorum Ri. Comi. " ils Cornubia frattis fui, & Ri. Comitis Norfolkia & "Suffolkia Mareschalli Anglia, H. Comitis Herefordia, " & Comitis Oxonia, I. Comiris Warwicia, & aliorum " Optimatum Regni Anglia; Nos B. divina milericor-"dia Cant. Archiepilcopus, totius Anglia primas, F. "Londinentis, H. Elientis, R. Lincolnientis, W. Wigorinienfis, W. Norwicenfis, P. Hærefordienfis, W. Sa-"risberienlis, W. Dunelmensis, R. Exoniensis, S. Car-· leolenfis, W. Bathonienfis, L. Roffenfis, T. Mene-« vensis Episcopi, Pontificalibus indutis, candelis ac-« censis, in transgressores libertarum, & Ecclesiasticorum, " & libertatum consuerudinem Regni Anglia, & praci-"pue earum que continentur IN CHARTA LIBER-TATUM REGNI ANGLIÆ, ET CHARTA DE "FORESTA, excommunicationis sententiam solenni-"ter tulimus sub hac forma. . Auctoritate Dei Omnipotentis, & Filii, & Spiritus Sancti, & Gloriola Dei Ge-" netricis, semperque Virginis Maria, & beatorum A-" poltolorum Petri & Pauli, omniumque Apoltolorum, " & beat i Thoma Archiepiscopi & Martyris, omniumque "Martyrum, beati Edwardi Regis Anglia, omniumque "Confessorum arque Virginum, omniumque Sanctorum "Dei, excommunicamus, anathematizamus, & a limine " fanctæ matris Ecclesia sequestramus, omnes illos qui "amodolcien:er; & malitiole Ecclesias privaverint vel s. spoliaverint suo jure. Item omnes illos qui Ecclesia-"flicas libertates, vel antiquas Regni consuetudines pro-"batas, & præcipue libertates, & liberas confuetudines QUÆ IN CHARTA COMMUNIUM LIBERTA-"TUM ANGLIÆ, ET DE FORESTA CONTINEN-"TUR, Concessis a Domino Rege Anglia Archiepis-"copis, Episcopis, & cæteris Angliæ Prælatis, Comiti-"bus, Baronibus, Militibus, & libere tenentibus, qua-"liunque N

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"licunque arte vel ingenio temere violaverint, diminue-" rint, seu immntaverint clam vel palam facto, verbo, vel "confilio contra illas, vel earum aliquam, in quocunque "articulo temere veniendo. Item in illos qui contra "illas, vel earum aliquam Statuta aliqua ediderint, vel "edita servaverint, consuetudines introduxerint, vel " fervaverint introductas, Scriptores Statutorum, nec-"non confiliarios & executores, & qui secundum ea præ-" sumplerint judicare. Qui omnes & singuli superius memorati, hanc sententiam incuriuros se noverint ipso facto, qui scienter aliquid commiserint de prædictis: "qui vero ignoranter nisi commoniti infra quindenam a ce tempore commonitionis se correxerint, - & arbitrio "Ordinariorum plenius fatisfecerire de commissis, ex " tune fint hac fententia involuti, - Eadem etiam fenten-"tia innodamus omnes illos, qui pacem Regis & Regni " præsumpserint perturbare. In cujus memoriam sempi-" ternam, Nos sigilla nostra præsentibus duximus appo-(How many in this age are involved in this " communication and execration, for the wilfull violation of this great Charter of our Liberties, and making Ordinances, Declarations, Remonstrances, Votes, Committees, and extrajudicial judicatories, and giving Judgements and Sententes against its almost in every Articlesis worthy consideration.) When this excommunication was thus pronounced. "Prolataque fuit in medium "CHARTA patris sui Johannis, in qua iterum concessit "idem mera voluntate ? & recitari fecit libertates supra-"dictas, Dum autem Rex memoratam sententiam "audisset, tenuit manum suum ad pectus suum tereno " vultu, voluntario et alacri. Et cum in fine projecildi fent candelas extinctas, et fumigantes, diceretur a fingu-" lis, sic extinguantur, & screant hujus sententia incurso-" res in inferno, & campanæ pulsarent : dixit ipse Rex, sic "me Deus adjuver, hæc omnia observabo fideliter, ficut " fum homo, ficut fum Christianus, ficut fum miles, & " ficut sum Rex coronatus et inunctus. Et sciendem "quod in principio sententia ferenda, cum traderentnt "comminue-

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omnibus Candela accensa, tradita fuit Regi una, & "cum accepisset eam, noluit eam tenere, sed tradidit ci euidam Prælatorum, dicens : Non decet me cindelam "talem tenere, non enim fum facerdos: Cor autem ma-" jus perhibet testimonium. Et extunc tenuit Manum " expansam ad pectus, donec totam sententiam finiretur. "Episcopus autem Lincolniens Robertus praconizans "in corde luo, & timens ne Rex a pactis resiliret, secit "illico, cum redieret in Episcopatum suum excommuni-" cari solemiter, in qualibet Ecclesia Parochiali per "Diocofin mam, que pre númerofitate sua vix possunt "altimari, & pracipue Sacerdotes omnes supra distarum . Chartarum infractores, que sententia poruit aures au-"dientium tinnire, et corda non mediocriter formi-In pursuance of this Excommunication, the King issued out Writs and Proclamations to all Counties, that all should be excommnicated, "qui veniant contra " CHARTAS de libertatibus, &c. reciting this excommunication, and other Writs and Proclamations, withped DE MAGNA CHARTA TENENDA AD

"INSTANTIAM PRÆLATORUM ET MAG † Mat. Paris;
"NATUM REGNI NOSTRI, salvis Nobis et hæredibus p. 839.

"nostris juribus et Dignitatibus Coronæ nostræ, &c. recorded in Claus. 37. H. 3. m., 9. & 13 Dorso, & Par. 37.

H. 3. m. 13. (But O the Atheistical Hipocrisse, persidiousnesse, and salfenesse of mens hearts and protestations)

"Soluto autem sic Concilio, Rex consestim pessimo u"sus consilio, omnia prædicta cogitabat infirmare, (as some have done, and yet doe) "Dictum namque est illi" quod non foret Rex, vel saltem Dominus in Anglia, si "supradictas tenerentur, et expertus est Rex Johannis
"pater ejus, qui mori præelegit quam sic pessundari cal-

"cibus subditorum, &c.

Anno 1254. the 38 of King Henry the 3. "Congrega- Mar. Paris,"
ti sunt iterum Regni Magnates Londini: Quibus signi- p. 858, 859.
ficavit Rex, quod pecunia indigebat, & viribus ampli Mar. Westm.
oribus ad repellendam violentiam magni hostis super- p. 261.
venicatis: Quod mandatum suit signatum Regio sigillo.

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"Reiponderunt au.em omnes & inguli: Quou jam per " tres leptimanas Londini inaniter expectantes adven-" tum Comitis Richardi, & aliquorum Magnatum moram " protrahentium, & toties Regiis exactionibus vexeban-"tur, quod vix poterant respirare. Non tamen venire o-" mitterent ad succursum Domini sui Regis corporaliter, " si de hostili adventu Regis Hispaniæ hoc comminantis oplenius certificarentur: mirabanturque, ut dicebant, " quod idem Rex Castillæ nunquam tempore quo Comes "Legrecestriæ Simon Gasconiæ præfuit, et rebelles "multos edomuit, Gasconiam vendicavit. Hoc igitur c'argumento, et multis aliis, sed et per Comitem S. qui ci tune de partibus rediit transmarinis, qui veritatem " fuper hoc nunciavit, Magnates edocti, Regis musci-"pulas præcaverunc, qui ex bonis Angliæ periclitantes ... alienigenas faginavit Et fic cum fumma indignatione e triftes admodnm Proceres recesserunt. Yet, to please' "the Nobles, I find in * Clauf 38. H.8. m. 8 4 a Writine * Firzh. Nat. " quidem ametcientur CONTRA TENOREM MAG-Brevium,f.75. " N. & CHART & de libertaribus Anglia, fed fecun-" dum modum delicti.

" Mar. Paris, p. 876. Mar. West. P. 271.

* Anno 1255 the 39 of Honry the 3: In quindena Pascha convenerunt Londini O MNES NOBILES ANGLIA, tam viri Ecclesiastici, quam seculares, ita quod nunquam tam populosa multitudo ibi antea visa fuerat congregata. Ubi Dominus Rex se multis debitis conquestus est fuisse implicatum, nec (e posse sine MAGNATUM SUORUM efficaci juvamine liberari, unde instanter & urgenter valde postulavit auxilium fibi ficei pecuniare. Scilicet ut de Baroniis quas prius in auxilio decima sibi concessa, plenam reciperet portio. nem, ut ad plenitudinem gratiaram perfolvendarum teneretur. Quod effet manifestum Regni exterminium. Regnum enim omne pecunia destitutum, volentibus illud occupari, quasi ulero foret expositum et oblatum. Inito igitur constio, quia illud nullo modo fuisset tollerabile, inter eos concessum est. OUOD MULTUM SESE GRAVARENT PRO MAG-N.A CHARTA SINE OMNI CAVILLATIONE. OBSERVATIONE EX TUNCET DEINCEPS, quam toties

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toties tenere promifit, juravit, & sub summa districtione fe in anima obligavi; Exigebat insuper, ut de communi consilio regni nostri sibi fusticiarium, Cancellarium, & Thefaurarium eligerent, sicut ab antiquo consuetum et pistum. Qui etiam non amoverentur, nisi clarescentibus culpis, et de communi Regni convocati consilia et deliberatione. Tot enim erant in Anglia Reguli, ut viderentur in Anglia antiqua tempora renovari. Erat videre delerem in populo, quia nesciebant Pralati vel Magnates quo modo suum Prothea, silicet Regem teverent, etiam fi omnia bac concederent, quia in omnibus meta transgreditur veritatis, et ubi nulla veritas, nulla pravalet certitudo fixa stabiliri. Dictumque est illis a secretissimis. Regiis cubiculariis, quod uullo modo illa que desiderabant, scilicet de Justiciario, Cancellario, vel Thefaurario concederet. Pralati insuper pro-decima, quam conditionaliter promiserant, absolute et serviliter ancillante Ecclesia jam solvere eam cogebantur, doloribus cruentabantur. Nobiles pro imminenti exactione, in oneribus sauciabantur. Tandem in hoc convenerunt communiser, ut Regi renunciaretur, ex parte universitatis, quod negotium dilationem caperet, usque ad festum Sancti Michaelis, ut et ipsi interim sidelitatem ejus, & benignitatem experirentur, fi forte fic fe versus eos et eorum patientiam fidelitatem ejus et benignitatem experirentur, si forte sie se versus eos et corum patientiam IN CHART & OB-SERVATIONE TOTIES PROMISSA, TOTIES REDEMPT Æ, corda eorum ad ipsa converteret, et merito reclinaret. Quod cum Rex dicitur non aeceptasse, sed tacendo non concessisse, Et cum summa desolatione et desperatione, post mult as inutiles - et dinturnas deceptationes, sic soluto confilo, Robiles Anglia fact jam ignobiles, ad propria remearunt.

Not long after the King to ingratiate himself with the * Mat. Paris; people, commanded the Great Charter to be observed. p. 878.

Acclamatum est in Comitatibus, et annunciatum est in Sy. Mat. Paris; nodis in Ecclessis, et ubicunque locorum homines convenerant. Walsingham at spagna Charta inviolabiliter teneretur, quam Rex ypodig. p. Johannes concessis, et este Rex prajens multo ies concessis, et 61 lata en tententia solenniter in omnes esusoem violato.

tes, quam tamen Rex minime adhuc observans, bona Ec-*Mar. Westm. clesia Eboracensis inhumane destruxit. * Dicebatque crebio: P.272, Quare non observant Episcopi & Alagnates Regni erga subjectos suos Chartam illam, pro qua tanjum clamitant, et objurgant (a good interrogation to our late and prefent swaying Grandees) Cui rationabiliter responsum est, Dominus Rex, decet vos primitus secundum jus jurandum tuam inchoare, et alis projecto sequerentur, secundum illud Poeticum,

Mobile versatur semper cum Principe vulgus.

P. 884, 885.

" Anno vero sub eodem ad festum Sancti Edwardi, sue-* Mat. Paris, crunt apud Westmonasterium OMNES fere ANGLIÆ "MAGNATES; inter quas Rex prius alloquebatur fra-" trem suum Comitem Cornubiæ Richardum, petens ab "eo instantissime auxilium pecuniare. Cui Comiti Do-"minus Papa similiter literas deprecatorias ditexerar, sup-" plicans in quadraginta millibus, Talvo fratri suo, mutuo " subvenirer, ut quasi dans ea eidem, pium daret aliis ex-" emplum suhveniendi, Comes autem nec preces Regis, " nec Papæ voluit exaudire, et eo maxime, quod negotium " eundi in Apuliam assumpsit fine consilio suo, et assensu " Baronagii sui, sibilis transalpinensium fascinatus. Ab " aliis autem interpellatum fuit de subventione facienda; "et responsum suit, quod omnes tunc temporis non suerunt "JUXTA TENOREM MAGNÆ CHARTÆ SUÆ, "vocati; er ideo fine paribus suis tunc absentibus nullum "voluerunt tunc responsum dare, vel auxilinm concedere, se vel præstare. Rex itaque ad consuetas conversus cavilla-" tiones, ut Magnates flecteret ad confensum, per multos dies negotium Parliamenti distulit inchoati, ita usque " in mensem fictis occasionibus negotium protelaret. Et " tunc ad alium locum conciliaturos, evacuatis in civitate "Londonensi crumenis, potius provocavit quam convo-"cavir. Comes vero Richardus, vir cautus et circumípe-"Aus, Episcopum Herefordensem, & Robertum Wale-"rannum focium fuum, acriter et merito redarguit, eo " quod tam enormiter in regni subverhonem Regem infa-" tuarent

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"tuarent. Et sic infe do negotio singuli provocati ad pro-" pria remeatunt.

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In the 40 year of King Henry the 3. (1256.) the great "Mar. Paris, Charter, to fatisfie the Prelates and Nobles, was again P. 891,892, confirmed by the King, and a folemn Excommunication Mar. Wellm, denounced against the infringers therof. * Provisum eft fa- p.275. lubriter, UT MAGNÆ CHARTÆ REGIS JOHAN-NIS quas spouts promisit BARONAGIO ANGLIÆ, et iste Rex presens storum, O nunc iterum de novo in magna au. la Westmonasteriens, SPONTE ET LIBERALITER CONCESSIT, SUB PENAHORRIBILIS ANATHE-MATIS CONSERVENTUR, et propter Regis tyrannidem. quam non definit exercere in Eccle sis vacantibus, quam memoratus Rex Johannes concessit Regno, conspectibus Papa prasentaretur: there recited at large and ratified by the Pope; Yet notwithstanding the Prelates, animated by the Barons refused to contribute any aid to the King out of their Baronies, not withstanding Rustan, the Popes Lig-tendeavoured to induce and force them to do it, both by wiles and mena-

Anno 1258. the 42. of Henry the 3d. his reign; he Mar. Paris, summoning a Parliament, and demanding a pecuniary Mat. Paris ayd of the Nobles, cum constanter et precise respondissent U. Mat. Westm. NO ORE MAGNATES REGNI IN PARLIA-277. MENTO REGI, cum urgenter auxilium ab eis postulasset pecuniare, QUOD NEC VOLUERUNT, NEC POTU-ERUNT, (Marke it) AMPLIUS SUSTINE-RE TALES EXTORSIONES. Rex iratus, ad alsa fe convertit astutia argumenta, ut ab Ecclesia pecuniam abraderet infinitam : there recorded at large. Duravit adhuc pralibati Parliamenti altercatio, inter Regem O regni Magnates, usque diem Dominicam proximam post A scentionem, & multiplicabantur contra Regem varia diatim querimonia, eo quod promissa sua non observabat, contemnens claves Ecclehe, ET CHART & SUE MAGNE TOTIES RE-DEMPT & TENOREM. Fratres quog, suos uterinos in. tollerabiliter contra jus regni et legem, ut naturales terre erexit, nec sinebat aliqued breve exire de Cancellaria contra eos

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REDARGUIUS EST INSUPER REX, quod omnes alienos promovet et locupletat, et suos in subver sonem totius Regni, despicet et depradatur. Et ipfe tam egenus est cum alii abundent, quod shefauri expers jura Regni nequit revocare ; imo nec Wallen fum, que funt hominum qui quilia , injurias propulsare; et ut brevibus concludatur; Exceffus Regis tractatus exigit speciales. Rex autem ad fe reversus, cum veritatem redargutionis intellexiffet; licet fero, bumiliavit fe, afferens iniquo confilio sapius suife fascinatum; promisique sub magni juramenti obtestatione super altare et feretrum S. Edwards, quod pristinos errores plane et plene corrigens, suis naturalibus benigne obsecundaret. Sed crebras tranfquessiones pracedentes fe penitus incredibilem reddiderunt; & quea nefciebant adbuc Magnates quomodo suum Prothea, tenere voluissent, quia arduum erat negotium et difficile, dilatum est Parliamentum ufg, ad festum Saucti Barnaba apud Oxoniam diligenter celebrandum. Interim Optimates Anglia, pipote Glovernix, Legrecestriz et Herefordiz comites, Comes Marescallus, et alii praclari viri, sibi pracaventes & providentes, confaderati sunt, quia pedicas et laqueos alienorum vehementer formedabant, et Regis retiacula suspecta nimis habuerant, veniebant cum equitibus et armatis, et comitatu copioso commu. mits.

P. 940,941.

" * Parlamento, autem (Oxoniæ) incipiento solidabatur * Mat. Paris, " Magnatum et confilium immutabile, exigendo confran-"tiffime, UT DOMINUS REX CHARTAM LIBER. " TATUM ANGLIAE, quam Johannis R.x pater "funs Anglis confecit, & confectam concessit, quamque " idem Johannes tenere juravit, FIRMITER TENE AT " ET CONSERVET; quamque idem Rex Henricus mul-"toties concesserat, et tenère juraverat, ejusq; infractores "ab omnibus Angliæ Episcopis, in præsentia sua et totius "Baronagii, horribiliter fecit excommunicare, & iple " unus fuerat excommunicantium. Exigebant insuper sibi " fieri Jufticiarium, qui jufticiam faceret injuriam patien-"tibus, æquanimiter divitibus et pauperibus, Quædam "etiam alia Regnum contingentia perevant', ad commu-" nem Regis & regni utilitatem, pacem simul & honestalom -

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cem. Quoi um contints et provinonibus necenarii Do. minum Regem frequenter et confiantillime confidendo a rogitabant obtemperare; jurantes fide mediante, et · mutuo dexiras exhibentes, quod non omitterent propo "firum perfequi, pro pecuniæ vel terrarum amislione, vel ce etiam pro vita et morie lua et luorem. Qiod Rex re. "cognofeens; graviter juravit confiliis corum obfecandare, "et Edwardus filins emseodem elt juramento affrictus. After which they expelled and chafed away all the Aliens about the King. " Et ita terminatur Parliamentum a; ud "Oxoniam, fine terminato et certo non opposito. Hereupon there is ned out fundry Writs and Commissions for reformation of abuses and punishing offences against the Great Charter, recorded in Rot. Clauf. 42 H. 3. m. 1. 3. 6. and that PER CONSILIUM MAGNATUM, as those Records attest.

Rot. Pat. An. 43 H. 3. m. 10, n. 41. & n. 15. there is a large Letters Patents of the King recorded in French, declaring the good Government that fould be for the future; the due observation of Magna Charta; the Kings faithful promise inviolably to keep the same according to his Oath and pomises; and that every man in ured might freely sut and complain against or arrest the King, or any other. And Rot. Pat. An. 44 H. 3, m. 4. Schedula; & m. 5.9. There are Writs and Letters of the King to the Sherifs of every County, to the same or like effect. All by the advice or procurement of the Nobles.

* Anno 1 263. the 47. of King Henryes reign, the King * Rishanger, and Nobles, to procure peace and reconciliation between Continuatio them, submitted themselves to the arbitrement of Lewes Mat. Paris, p. King of France, touching the Provisions made at Oxford, 960, 961. about which they had great contests and differences: who solemnly pronounced Sentence for the king against the Barons of England; "Statu is Oxonia, Provisionibus, "Ordinationibus et obligationibus penitus annullatis, "Hoc excepto quod Antiqua Charta Regis Johannis "Anglia, unsversitati concessa, per illam Sententiam in "nullo intendebat penitus derogare. Qua quidem ex-

Nota.

" cepcio Comitem Leiceltria, et cateris qui habeant fen-"fus exercitatos, compulit in propofito tenere firmiter "Statuta Oxoniæ quæ fundata fuerant super illam Chararm. Whereupon they taking up arms, walting and pil. " laging the Kings Manors, Lands and adherents, the King " in the 48. year of his reign, " mediantibus viris honoraceris paci Baronum acquievit ad tempus; ut Brobiffones "Dronfæ inviolabiliter obserbarentur, which Provinons the King confirmed by his Parents, recorded at large in the Tower, Ror. Par. An. 47 H. 3, pars I. m.7. n. 25. and pars 2. nu. 2. Rot. Par. 48 H. 3. pars 2. m. 3.

Ror. Pat. 46 H. 3. m. 18. Pat. 49 H. 3. m. 10. 15,18. Clauf. 49 H. 2. m. 4. 5. & Clauf. 50 H. 3. m. 1. dorfo. There are several Patents, Commissions, Proclamations procured by the Lords from the King, for the reading, proclaming, and inviolable keeping of the Great Charter and Franchifes of the Realm, and reformation of Grievances contrary thereunto, overtedious to transcribe: and the Agreements between the King and Barons touching the fame.

* Tho. Wal-

t King Edward the I. in the 25. year of his reign, by fingham, Hift. his own regal Authority, without grant in Parliament, 37, 38. Ypo- which he levie 1, whereas before they payed onely half a Anglia, P.35, raised the Custom of Woolls to 40 s. upon every sack, ftriz, p.84,85, mark a fack: And likewife fummoned fome Nobles, and all those who held of him by Knights service, with all others who had lands to the value of 20% or upwards a year, to be ready with their horses and arms at London on the feast of SPeters advincula, & to pass over with him into Flanders, to serve there in the Wars at the Kings wages. Hereupon the Earles Mar hal and of Hereford, with other Nobles, refused to goe into Flanders; and drew up this Notable Petition, or rather Remonstrance to the King, a. gainst this unjust Imposition, foreinservice, and other Grievances against the Great Charter and their Liberties, which they lent to Winchelfer by Messengers, ex parte Co. misum (ni regni, as Walfingham relates.

"Hac sunt nocumenta qua Archiepiscopi, Episcopi, "Abbates et Priores, Comites et Barones, et tota terra

" Communitas

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t fenmiter Chard pil. King noratones ilions ge in 5. and 5,18. dorso. tions pro-Franntrary nents n, by ment, fack, half a , and all oards a lon on n into ages. other this Bg, 2 other rties, e (o.

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Communicas monstrant Domino nostro Regi, et humi-Cliter rogant eum, ut ad honorem fuum, et salvatio-"nem populi fui, velit corrigere et emendare. In primis, " videtur toti Communitati terra, quod Pramonitio facta c'eis per Breve Domini nostri Regis, non erat satis sufficiciens, quia non exprimebatur certus locus, quo debebant ire, quia secundum locum oportebat facere providenticam, et pecuniam habere. Et five deberent servitium facere five non, quia dictum est communiter, quod Do-"minus noster vult transfretare in Flandriam, videtur toti "Communicati quod ibi non debent aliquod fervitium facere, quia nec ipfi, nec prædecessores sui seu proge-"nitores unquam fecerunt servicium in terra illa Et "quamvis ita effet quod deberent ibi fervicium facere, ut "alibi, tamen non habent facultatem faciendi, quia nimis " afflicti funt per diversa Tallagia, Auxilia, Prijas, videlicet, "de frumentis, avenir, braseo, lanis, coriis, bobus, vaccis, carnibus falsis, fine solutione alicujus denarii, de quibus s se debuerant suitentaile. Propter hoc, dicunt, quod non " possunt auxilium facere propter paupertatem in quæ cifunt propter Tallagia et Prilas antedictas, quia vix hac bent unde se sustentarent, & multi sunt qui nullum su-6. Hentationem habent, nec terras fuas colere posiunt. "Propter hac tota terra Communicas sentiunt se valde gravatam, quia non tractantur secundum Leges et con-"fuetudines terræ, secundum quas tractari Antecessores " sui solebant habere, sed voluntarie excluduntur. Senti-" unt etiam se multi gravati super hoc, quod solebant tra-" Aari, fecundum Articulos contentos in Pagna Charta, "cujus articuli omnes funt omiti, in majus damnum po-"pulo univerio. Propter hoc rogant Dominum nollrum "Regem, quod velit ilta corrigere ad honorem suum, & "populi sui salvationem: Propter hoc Communitas ter-"ræ fensit se nimis gravaram de affila Foresta, quæ non est " custodira ficut consuevit, necCharta Forestæ observatur, "fed fiunt attachiamenta pro libitu extra affifam, aliter "quam fi.ri consuevit : Paterea, tota Communitas fen-"tit se gravatam de Vectigali lanarum, quod nimis est onerolum

"oneroium, videlicet, de quolibet Sacco quadraginia "iolidos, et de lana fracta, de quolibet facco teptem mar-"cas, lana enim Angliæ ascendit fere ad valorem medi-"etatis totius terra, et vectigal quod inde folvitur, afcence dit ad quintam partem valoris to: ius terra. Quia vero communitas optat honorem et falutem Domino noffro "Regi, ficut tenetur velle, non videtur eis, quod fit ad bo. num Regis quod transeat in Flandriam, nisi plus effet "affecuratus de Flanderensibuspro le & pro gente sua, et fimul cum hoc, propter terram Scotia, que rebellare in-"cepit ipfoexillente in terra, et æltimant quanto pe jus fa-" cerent cum certificati fuerint , quod Rex Mare tranfi-"erit. Nec solum pro terra Scotie, sed etiam pro terris aliis que non funt adhuc modo debito fabilitate.

The King having received those Petitions, answered, that he could not as yet answer them without his Counfel, part of them being in Flanders, and the relt left at London: And he intreated the faid Earls by the Mellengers who brought the Petitions, that if they would not passe over with him, yet at least that they would not hurt his Realm during his absence, for he hoped by Gods affifiance to return again, and fettle his Kingdom in order. The King passing into Flanders, the said Earls, Batons in person inhibited the Treasurer and Barons of the Exchequer, that they should not levy the 8th. penny of. the people, being granted to the K. at St Edmands, * withfua non ema-out their confent and induced the City of Lond. to Stand with them, for the recovery of their liberties. Whereupon Prince Edwards counsel perswaded him to send for the Earls of Hereford, and Marshal, and by any means possible to allure them to prace, who repairing to him upon lummons, were willing to confent to the Articles and form of peace enfuing, but to no other. Prime, Qued Diminus Ren Chartam magnant cum exteris articulis addillis, et Chartam De Fozella annuat et confirmet: et Duod nullum aurilium bel berationem erigat a. Clero vel Populo abique confilio et alleniu: et quod omnem offe fam Comitibus et corum confederatis dimittat. Articuls.

* D'centes 2 Conscientia naffe fine quorum aflenfu , Tallagium non debet exigi vel imponi, Mar. Westm, An. 1297. P. 410.

aginta n mar. medi. afcena vero noffro ad bo. s effet ia, et ire inius faranfiterris ered, Couneft at flennot not Gods nor-Baof the ny of . rithland eretor cans him cles mo , artinfirat a 0m -

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iculi.

giculi adietti ab magnam Chartam fum ifti. Dullum Tallagium bel aurhium per nos bel haredes noltros, de extero in regno nottro imponatur seu lebetur fine boluntate et allenlu communi Archiepiscoporum, Episcoporum. Abbatum et alfozum Paxlatozum, Comitum, Baronum, Wilitum, Burgenfium, et alfogum liberogum Nuclus minister noster, vel hereduns nostroruns in 1010 regno nostro cap at blada, lanas, Coria, aut aliqua alia bans cujul unque. fine voluntate et affensu cujus fuerunt. Bibil capiatur de catero nomine bedigalis de Sacco-Volumus etium et concedimus pro nubis et hares but noiteis, qued omnes Clerici et Laici de Regno nostro babeant omnes Leges, Libertates, et omnes consuetudines, ita libere et integre, ficut aliquo tempoze consueverunt melius pleniusque pabere. Et / contra illas vel gaemennque er ruculum in p afante Charta contentum statuta juerint adita per nos vel Antecuffores nostros, vel consuctudines introdutta: Volumus et concedimus, quad bu ufmodi Scatuta vacua fint , et nullum in perpetuum. Remissimus etiam Humfredo dæ Boun Comici Herefordiæ & Eflexiæ, Constabulario Anglix, Rogero Bigot Comiti Norfolcix, Marechallo Anglix, Etalis Comitibus, Barombus, Militibus, Armigeris, Johanni de Ferrariis, ac omnibus alies de corum societate confederatione et concor dia existe, tibus, nec non omnibus vigenti libratas terra tenentibus in regno nostro, sive de nobit siv de alio quocunque in capite, qui ad transfretandum nobifcum in Flandriam certo die notato vocati fuerunt, et non venerunt rancorem nostram & malam voluntatem quam ex causis pradictis erga cos habuimus, et transgressiones si quas nobis vel fecerunt, ufque ad prafentis Chart : confectionem. Et in majorem securitatem hujus rei, volumus et concedimus pro nobis et haredibus nostris, quod omnes Archiepiscopi, et Episcopi Anglia in perpetnum in suis Cathedralibus Ecclesiis habita prasenti Charta relitta excommunicent publice, et in fingul s Parochialibus Ecclesiis suarum D'ocesium excommunicari faciant; fon ancammunicatos denunciare bis in anno, omnes qui conera tenor em prasentis Charta vim et effectum in quocunque articulo scienter fecerunt, aut fieri procuraverunt

gnovi modo. Miffis igitur in Flondriam nunciis ad infum Regem , confirmationem omnium iftozum fub figillo fuo (tanquam ab co qui in arcio cofitus erat, ecdendum malita temporis cen (uit) obtinuerunt. Pro confirmatione et barum rerum omnium dedi: populus Anglicanus Regi denarium nonum bonorum fuorum , Clerus vero Cantuarientis Decimum, et Clerus Eboracensis Quintum, qui propsordamno fuit. So Wallingham truly relates the Hittory of this transaction.

These Statutes thus obtained by the Earls and Barons from the King, are printed in our Statutes at large, with the excommunication of the Prelates then denounced against the inflingers of them, in Rastals Abridgement of Statutes, & Sir Edward Cooks 2 Inflitur.p. 527. to 537. being thus intituled : Confirmationes Chartarum de Libertatibus Anglia et Foresta, et Statutum de Tallagio non concedondo. made both in the 25 year of Edward 1. not in the 34, as our Statute books, and Sir Edward Cook mildate the latter of rhem. The differences between the King, thele Earls and Nobles touching these liberties, with his confirmation of them, and the aid granted him for the fame, are likewise recorded in the Patent Roll of 25 Ed. 2. par. 2. m. 6, 7, 9. And Clauf. 25 E.I. m. 2. 5, 14.18.76 dorf. there are fundry Writs and Proclamations fent to all the Sherifs! for the keeping of Magna Charea in all its articies, and to the Bishops to excommunicate the Infringers of them, agreeing with Walfinghams relation.

* Walfing- 1 ham Hift. 3 Angl. p. 42, 44 Cook 2. Ypodigmæ Neuftria. p. An. 1299. P. 415, 416.

Anno 1 299. the 26 of King Edward the first, the king holding a Parliament at York, the foresaid Earls, because the Confirmation of the Charters forementioued was made in a forein land, requested that for their greater security, lustic. p. 537 they might be again confirmed by the King in England, which the Bishop of Durham and three Earls engaged he 87. Mat. Weft, should doe, upon his return out of Scotland with victory. Whereupon this King the next year (being the 27 of his reign) holding a Parriament at London: Whi rogatus a Comitibus fape dictis,ut Chartarum confirmationem renobas tet, secundum quod in Scotia promiserat, post aliquas dilationes instantia corum acquievit, hac additione, Salbo fuze

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Corona noltre, infine adjecta. Quam cum audiffent Comites, cum displicentia ad propria recesserunt, sed revocatis iphis ad quindenam Pascha ad votum corum absolute omnia funt Concessa. And thereupon the Statutes intituled Articuli (uper Chartas. (28 E. 1. in our printed Statutes, and Cooks 2 Institutes, whereas it should rather be 27.) were then made and published by these Earls and Nobles rrocurement; and Writs fent to all the Sherifs De quibuldam Articulis in MAGNA CHARTA contemis, & Charta de Foresta Henrici Patris nostra observandes. Rot. Clauf. 27 E.1 m.17. And Pat. 28 E. 1. m. 14. Commissions are fent into all Counties, de Artic. in mag. Chart, content. & Stat. Regis apud Winton edita observandis, and that whofoever did not observe every Article, should be punished per imprisonamentum, redemptionem, vel amerciamentum, fecundum quod transgreffio exigeret, there being no certain way of punishment before ordained. And Clauf. 28 E. m.7, 8. There are Writs fent to every Sherif, to read & proclaim magna Charta in his County 4 times every year,& to proclaim Articulos Super Chartas à Rege topulo concessos.

But the Execution of the Articles of the Forest being deferred, not withstanding these Proclamations, thereupon Walfing-King Edwardheld a Parliament at Scanford the 29 year ham Hift. of his reign; ad quod convenerunt Comites et Barones Angl. p. 48. cum canis et armis, eo prout dicebatur proposito, ut exe- Ypodigma cutionem Charta de Foresta , hattenus dilatam ertoz Neuftria, p. auerent ad plennm: Rex autem corum instantiam & impor- 88. tunitatem attendens, corum voluntati in omnibus condescendit. To omit all other Prefidens, these forecited abundantly evidence the gallantry, stoutness, heroical courage, care, vigilancy, of the Lords in all our Parliamentary Councils, to maintain and defend the fundamental Liberties, Properties, Great Charters of the Realm, and to perpetuate them to posterity, without the least violation: to vindicate, re-establish them when infringed, and to withfland, oppole all unjust aids, taxes, subsidies, when either demanded, levied, exacted by our Kings, though in cases of pretented or real necessity to supply their wants, main-

cain their wars, and protect the Realm from forein enemies. I shall only produce three or four Hittorical Prefidenis more, demonstrating what great Curbs, Remoraes. Obstacles, some particular potent Noblemen of great e. states, alliance, publike spirits have been to the exorbitant arbitrary wills, power, proceedings of our Kings, who most endeavoured openly to subvert, or cunningly to undermine our publike Laws and Liberties.

(i) Hift.Angl. P. 233.

(i) Mat. Paris, speaking of the death of Geoffry Fitz-Peeter, one of the greatest Peers of that age, writes thus of him, This year (Anno 1218.) Geoffry Fitz-Peeter Chief Instice of all England, a man of great power and authority. TO THE GREATEST DETRIMENT OF THE KING. DOM, ended his dayes the 2. day of Octob. ERAT autem FIRMISSIMA REGNI COLUMNA, for he was the most firm pillar of the Kingdom, as being a Nobleman, expert in the Laws, furnished with treasures, rents, and all fort of goods, and confederated to all the great men of England by blood or friend hip : whence the King without love did fear him above all men, for he governed the reigns of the Kingdom. Whereuson after his death, England was become like a ship in a Storm without an helm. The beginning of which tempest was the death of Hubert Archbishop of Canterbury, a magnificent and faithfull man, neither could England breath again after the death of these two. When K. John heard of Fitz Peeters death, surning to those who sate about him, He said; By Gods feet, now am I first King and Lord of England. He had therefore from thenceforth more free power to break his Oaths and Covenants which he had made with the faid Geoffry for * Mar, West, the peoples Liberty and Kingdoms peace. Such Pillars and

Flores Hift. An. 445. P. 151.

Staies are great and front Peers to a Kingdom, and Curbs to tyrannical Kings; which caused Vortigern the British King who usurped the Crown with the treacherous murder of his Soveraign; Nobiles deprimere, et moribus et fan. guine ignobiles extollere, quod maxime regia honestati contra_ rium est, to secure his throne thereby against their predo. minant power; as other Usurpers and Tyrants fince have done: Therfore of meer Right they ought to have a place

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William Duke of Normandy having flain the Ufurper King Harold, with many thousands of Englishmen in the field, routed his whole Army, and caused the City of London and most parts of England to subject themselves unto him as their Soveraign, out of bale fear; thereupon Chronicon Stigand Archbishop of Canterbury, and Eglesine Abbot of Willielmi St. Augustine, chief Peers of the Realm, and Lords and Thorn, col. Governors of Kent, to preferve themselves, their Coun- 1786. Antiqu. try, Laws and Liberties from vallalage to the Norman joke, Ecclef. Brit. allembling all the Commons of Kent to Canterbury; infor- P. 89,90. med them : That they were born freemen, that the name of Britannia, p. bondage was never heard among ft them : that nothing but fer- 325. Godwins vitude attended them, of they unworthily submitted to the info- Caralogue of lency of the invading Enemy, as others had done. And there-Bishops, p. 28. upon exhorted them, manfully to fight for the Laws and Li-Speeds Hilloberties of their County, chufing rather to end an unhappy life , Sir John Heyby fighting valiantly for them in the field, than to under goe an wood in Will. unaccustomed yoke of bonduge, or to be reduced from their I. Lambard known Liberties to an unknown and unsure slavery. After his Perambuwhich the Archbishop and Abbot, chasing rather to dye in battel, than to behold the misery and slavery of their Native Country, became the Captains of the Kentish Army which they raised; and by a Stratagem invironing Duke William and his whole Army at Swanscomb; they procured this Grant and Concellion from him, That all the people of Kent should for ever enjoy their antient Liberties without diminution, and use the Laws and antient Customs of their Country: they being resolved (as Stigand told the Duke) rather to part Gul Nubi-with their lives than them; Liberty being the proper badge of gensis, Resum After which Duke William marching to Angl. l.1. c.1. Kentishmen. London to be Crowned King, * Cumque peralta victoria Chronicon Apranni nomen erhogrescens, et legitimi Paincipis per. Johannis Ionam induere Belliens, a Sugando une temporis Cantu Bromton, col. atienti Episcopo confeerare deposceret; Ille (out of an hero Eccles, Brit. ick gallant English Christian spirit \ Miro, vi aich t, Ctus p. 89. ento et alieni juris Invasori, manus imponere nullatenus

982. Anriqu.

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Mar. Paris, Mar. Westm. Wig rnier fis, Huntindon , Hoveden, Chronicon Willielmi Thorn, col. 1787. Hen.de Eventibus c. 8. Antiq. Ecclefiæ Brie & Godwin in Stigands life C. I. P. 4.

abquiebit. Whereupon he was crowned by Aldred Arch. bumop of Tork: * King William for this his floutness and oppolition in defence of his Countries Laws and Liberties, under a pretence of honor, first carried him with him into Normanay, as a Prisoner at large: afterwards upon feigned pretences, caused him to be deprived of his Arch. bishoprick, and then shur him up Prisoner in the Castle of Knyghton de Winchester, where he soon after died of grief or famine, having scarce enough allowed him to keep foul and life Angliz, 1. 2. together: Such a curb and terror washe to him, whiles he lived in place and power, that he could not carry on his designs against the English, to capivate, or enslave them, till he was removed out of the way of this Conqueror; who *Rerum Arg. came to the Crown by the effusion of fo much Christian. lix, Hift. 1. 1. blond, that * Gul. elmus Neubrigensis gives this centure of it; (and let ail other invaders of the Crown by blond ob. serve it;) Sane quod idem Christianos innoxios hostiliter Christianus impetiit, et tanto fibi sanguine Christianum Regnum parabit, quanta apud homines gloria, tanta etiam apud Deum norz fuft. Whence Stigand refuled to crown him. Simon Montefort Earl of Leicester, the greatest Pillar, and General of the Barons, in the wars against King Henry the 3d, for the preservation, corroboration of Magna Charta, the Liberties and Properties of the People, was fo terrible to this extravagant, oppressive King, frequently violating both his Great Charters, Laws, Oaths, " That being perswaded to enter into his house, in a tempest of thunder and lightning, which he very much feared; the Earl courteoully meeting him and faying : Why do you fear? the tempest is now past: the King thereunto replyed, not jestingly, but seriously with a stern countenance, I fear thundring and lightning above measure, but by the head of God. I tremble more at thee, than at all the thundring and lightning in the world. Being aft erwards flain in the Battel of Eusham in defence Continuation of his Countries Liberties. (k) Rifhanger gives this Enco-

" Mar. Paris, P.944.

(k) In his of Mar, Paris, p.968, & Damc , p.178.

mium of him, Thus this magnificent Earl Simon ended his dayes, who not only bestowed his estate but his person and life alfo, for relief of oppressions of the poor, for the asserting of Ju-

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fice and the Rights of the Realm. A sufficient Ground for such Nobles and their Polterity to fit and Vote as Peers in Parliament without the peoples election.

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In the 3, 4, 14, & 15 of K. Edw. 2. his reign, The. Earl of Lancafter, and other potent wealthy Barons, were the chief Sticklers against Gaverston and the Spencers, who leduced the King, oppressed the people : and were the principal Pillars of our Laws & Liberties, as our (m. Historians (1) Walfingrelate at large, procuring those ill Counsellors to be banished, Daniel, Speed and removed from the King even by force of Arms. In 10 Stow, Gration 11, & 22. of King Rich. 2. the Duke of Gloucester, the Fabian, Ba-Earl of Arundel, and other potent Lords were the princi . ker. in Ed. 2. pal oppofers of the Kings ill Counfellors, Tyranny, the chief precestors of the Laws and peoples Liberties, to the loss of fome of their lives, heads, estate, as our Statutes, the Rolls of Parliament in those years, and (" Historians (n) Walfing. witness: whence Walfingham writing of the Duke of Glo-Fibian, Hocefter's death, murchered by the Kings command at Calice linked, Grafwho was the principal Anti-royalist and head of all the ton, Speed, Barons, useth this extression, Thus diedthis best of men, the Stow. in R 2. Son (and Uncle) of a King, in quo polita fuere spes & solatium TOTIUS REGNI COMMUNITATIS, in whom the hope and solace of the Commonalty of the whole king dom were placed: who referred his death to highly, that in the Parl, of 1 H. 4. Hall, who had a hand in his murder, was condemned and executed for a Traytor, his Head, Quarters hung up in feveral places, and K. Richard among other Articles deposed, for causing him to be murthered.

Since then our Peers and Nobles, as the remifed Examples abundantly evidence, have been alwaies persons of greatest valour, power, estate, interest, most able, forwards to oppose the Tyranny, Exactions of our Kings, and to preferve the Great Charters of our Liberties, first gained, fince preferred and transmitted to us by their valour, bloud, counsel, cate, with our other Laws, which they have upon all occasions manfully defended, with the hazard, loss of their lives, Liberties, Estates, and upon this ground were thought meet by the wildom of our Ance-

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ham, Trufsle,

Hors,

itors to merit and enjoy this privilege of fitting, voting, judging in Parliament, by vertue of their Peerage, and Baronies: And fince we must all acknowledge, that the Lords (affembled in a Great Council by the King at York, as the Commons themselves acknowledge and remon-Arate, Exact. Collection, p. 13.) were the chief in frumeuts of calling this present Parliament, and were therefore in the Act for Triennial Parliaments, principally intrusted to summon and hold all future Parliaments in the Kings, Lord Chancellors, or Lord Keepers defaults: Being also very active in suppressing the Star-chamber, High Commission, Councel-Table, Prelats, and other grievances, and those who first appeared in the Wars against the King and his party, in defence of our Laws, Liberties, Religion, Parliaments Privileges, to the great encouragement of others, (witnesse the deceased Lord General Esfex, Brooke, Bedjord, Stamford, Willougbie, Lincoln, Denbigh, Manchester, Roberts, and others) it would be the extremity of folly, ingratitude and injustice to deny our Peers this hereditary Right, Privilege, Honour now, weh they & their Ancestors purchased at so dear a rate; and a means to dis-ingage them for ever fiding hereafter with and fetting them against the Commons, and Republike, for such an high dishonour and affront as this will prove.

3ly. Our Lords and Nobles have been the stontest Champions to defend the Rights, Privileges, Liberties of the Crown, Realm and Church of England, the Great Charters, Liberties, Laws, Franchises, Properties of the Joh. Brompt. Clergy, people therein, against the Popes and Prelates Antichristian invasions and enchroachments on them; for proof whereof I shall present you with these sew pertinent presidents, instead of many others, recorded in our Annals. * Pope Paschal the 2. and his Confederate An-Statu. & suc-selm Archbishop of Canterbury, endeavouring by a Papal Decree, to deprive the King of the investiture of Bishopricks, by a Ring and Staff, which his Ancestors enjoyed, The King thereupon writ, and fent him a Letter by two of his Bishops, Anno Dom. 1103. wherein he concludes

* Chronica col. 999. Sir John Davis his Irish Reports, f. 90. Ufferius de cessione Ecclesiæ, p. 127. Cooks 2 In-Aitur. p. 97.

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" Beneficium quod ab Antecestoribus meis beatus " Petrus habuit, vobis mitto, colque honores & cam o-" bedientiam quam tempore Parris mei antecellores ve-"Ari in Regno Angliæ habuernnt, tempore meo ut habe-"atis volo; co videlicet tenore, ut dignitates, ulus et con-" fuerudines quas Pater meus tempore antecessorum ve-"Hrorum in regno Anglia habuit, Ego tempore veffro, in eodem regno meo integre obtineam, Notumque ha-"beat Sanctitas vestra, quod me vivente, Deo auxiliante "dignitates, et ulus Regni Anglia non minuentur. " li ego, quod ablit, in tanta me dejectione ponerem, OP-"TIMATES MEI, imo TOTIUS ANGLIÆ PO-"PULUS ID NULLO MODO PATERETUR. Habi-"ta igitur karissime Pater utiliore deliberatione, ita se "erga nos moderetur benignitas veltra, ne, quod invitust "faciam, a veltra me cogaris recedere obedientia. To pretermit the Statutes of Clarindon, Anno 1164, made and fworn to be observed by the Prelates, Abbots, Earls, Barons and Nobles, very derogatory to the Popes and Prelates ulurpations, in maintenance of the Kings Prerogative, and peoples liberties, recorded in Mat. Paris, p. 96, 97. & Chronica Gervasii, col. 1386.

In the year 1185. Heraclius Patriarch of Jerusalem & Mat. Paris, comming into England with the Keys of the Tower of Hift, Angl. David, and of Christs Sepulcher, and the Banner of the vasii Chron, hely Cross, presented them to King Henry at Reading, col. 1 474. Rawhom they had elected King thereof, with an earnest dulphus de Letter from Pope Lucius to accept thereof, that fo he in Diceto Imahis absence might the more securely invade the rights of gines Histor. his Crown and Kingdom. Hereuron the King Convocatis apud Londonsam totius Anglia Primatibus, as Gervasius Dorobernensis, or Convocato Clero Regni ac populo (to wit the Prelates and Nobles, not ordinary Clergy and Commons, ulually expressed by this phrase) as Mar. Paris relates it; Convenerunt Londoniis apud Fontem Clericorum, decima Kalendas Aprilis Rex, cum universa 200bilitate Regni, which expounds Clerus Regni et Populus. Whence Radulphus de Diceto thus relates it. Ad vocatio-

nem,

nem Regis Cantuariensis electus, et Cantuariensis Ecclesia Suffraganei, Dunelmenfis Epifc. Abbat. Conventualiam locorum Paxlati, Comites et Barones convenerunt apud fontem Clericorum 15 Kal. Aprilis. Rex itaque Pairiarcha, Magistro sancta domus bospitalis Jerosolomi audientibus omnes suos fideles qui convenerant adjuratimibus, multis obstrinxit, qualenus proponerent in medio, quod super his saluti anima sua viderint expedire. Ad hoc enim cor fuum inclinatum dicebat, nt quod acciperet ex eorum consilio modis omnibus observarer. Tunc Concilio universo super pramissis colloquenti, datum est igitur sub deliberatione, quod effet consultius, vel quod Rex in fropria sua persona Jerosolomitanis succurreret, vel Anglorum regno, cujus gubernationem in facie Matris Ecclesia dudum susciperat, adhuc praesse nulla ratione desisteret. Ad illa signidem tria que Rex quilibet confecrandus promitit aliqui revocabant. Promittit namque se pracepturum & opem pro viribus impensurum, ut Ecclesia Dei populusque Christianus veram pacem in omni tempore (ervet. Promitte etiam, quod rapacitates, et omnes iniquitates omnibus gradibus interdicet. Promittit adhuc, quod in omn bus judiciis aquitatem & misericordiam pracipiet. Satius ergo visum est UNIVER. SIS, & anima Regis multo salubrius, quod regnum suum debita cum moderatime gubernet, et a barbarorum irruptionibus, & a gentibus externis tueatur, quam faluti Orientalium in propria sna persona. De filiis Regis quidem, quorum petiis aliquem Patriarcha, si Rex tamen recusaret, quicquid statuere cum effent absentes incongruum videbatur. Whereupon Heraclius returned, the Pope and he by this advice of the Nobles being both deprived of their hopes: " Rex inito consilio, responderat, quod oblatum sibi Regnum Hierosolomitanum accipere et adire , et Regnum Anglorum deserere, & hostibus vicinis exponere, non fuit ut credidit Deo acceptum, cum sit Deo tam gratum, tam devotum boc, ut illud.

*Mat. Westm. An. 1185.p.

* Mar. Paris, 'King Iohn in the 17 year of his reign having confir-P. 254. to 276. med the Great Charter of the liberties of England, and of the Forest, by his Seal, Oath, and the Pores own Bull, after his surrender of his Crown and kingdom to the Pope, regranted to him under an annual tribute of Pope Innocent

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ocent by by his Builtin a General Council held at Rome, repealed these Charters of the King, as compelled to grant them by force and fear against his will; commanding the King, under pain of a curse and excommunication, not to observe, & the Barons not to exact or demand the said Charters, or any obligations or cautions what soever, for or concerning them, which he niterly cancelled and made void, ut nullo unquam tempore aliquam habeant firmitatem: Writing also exhortatory & minatory Letters to the Barons, not to claim the said Charters or Liberties, (obtained by force and fear and therefore not only vile and dishinest, but unlawfull and unjust, under pain of his disple fure and Sentence : But what was the iffue, " Matthew * Pag. 258. Paris thus records. "Cumque tandem Rege Anglorum oprocurante, Magnates Anglia has Literas tam commo-"ni orias q'am comminatorias accepillent, Boluerunt " belittere ab inceptio, ed adhuc infurgences, Regem acri-" ter intettabant, dicendo de Papa illud propheticum. Væ "qui juftificatis impium, &c.

The Pope being informed, that the Barons perfilled in the profecution of their Liberties and Wars against the King; excommunicated them & al their a therents in gene. ralstor contemning and difrespecting his faid Papal Decree, Letters, authority; and suspen ed the Archbishop of Canterbury for fiding with them. But they contemning this his Sentence, and perfevering in their defigns, and wars, hethereupon excommunicated all the Barons by name, and likewise interdicted them and their adherents; which being published in most places in the Country, and thereby. coming to the Londoners and Barons knowledge, they exceedingly flighted his excommunication, & reviled, contemned the Popes authority in the highest degree, (as

Matthew Paris (though a Monk) thus relates) Excom- . Pag. 267; munication is et interdilli sententias civitas Londinensis, per 268. contumaciam multiplicem adeo contemnendo despexit, quod nes eas Barones observare, nec Pralati publicare DECREVE-Dicebant enim generaliter, omnes literas falfa suggestione fuisse impetratas, & ideo nullius esse momenti, & boc maxime, quod non pertinet ad Papam ozdinatio re-

rum Laicozum, cum Petro Apoftolo, & ejus fuccefforibus non nisi ecclesiasticarum dispositio rerum à Domino sic collata potestas. Ut quid ad nos extendit Romanorum insatiata cupiditas? Duio Episcopis Apostolicis et militiæ nostræ? Ecce Successores Constantini, & non Petri : non imitanjur Petrum in meritis vel operibus, nec alsimulanoi funt in Pote. state: Proh pudor, marcidi ribaldi, qui de armis vel libertate minime norunt, jam teti mundo propter excommunicationes fuas volunt-dominari, ignobiles usurarii et Simoniales. O quantum dissimiles Petro, qui sibi Peri usurpant partes? Sic igitur blafthemantes & recalcitrantes, ponentes os in colum, ab intervici fi be Ercommunicationis Cententiam, nullum penitus babentes respectum, per totam civitatem celebrarunt divina signa, pull antes & vocibus altisonis modulantes. Hereupon the Pope reviving his Excommunication 2gainst them, the Barons still flighted it as before; deposing King John from the Crown, and electing Lewes of France for their King, and thus revising the Pope for fiding with Et quid de te Papa ? qui pater fantitatis, She-King John. culum pietatis, tutor justitia, & custos veritatis toti mundo deberes lucere in exemplum, tali consentis, talem laudas & tueris ? Sed hac causa, exhaustorem pecunia Anglicana, & exactatorem Nobilitatis Britannica tibi inclinantem defendis, ut in barathrum Romana avaritia omnia demergantur: fed bas causa et excusatio, est ante Deum , culpa et accusatio. De sic Barones lachrymantes & lamentantes, Regem & Papam maledicerunt.

*Mat. Paris, p. 268.

* Mat. Paris, P. 349, 350.

* Anno 1229. the 23. of King Henry the 3. Fecit convenire apud Westmonasterium Dominica, qua cantatur, Milericordia Domini, Archiepiscopos, Episcopos, Abbates, Priores, Templarios, Hospitilarios, Comites, Barones, Ecclesiarum Restores, & qui de se tensbant in capite (but no elected Knights, Citizens or Burgesset that we read of) addocum prasixum et diem; that they might hear the businesses stephen the Popes Chaplain and Legat had to propound unto them from the Pope, & de rerum exigentiis communiter trastarent ibidem: Omnibus igitur congregatis, tam Laicis quam Clericis, & carum subjection, Magister Stephanus co-

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ram omnibus recitavit Literas Domini Papa; in quibus exigebat Decimas omnium rerum mobilium de tota Anglia, Hibernia, et Walka, ab universis Laicis & Clericis; ad guerram fuam sustinendam, que contra Romanum Imperatorem susceperat Fredericum, ipfe folus, pro Univerfali Eeclefia &c. The Legat herupon preffing them earnefly to grant this firange Tenth to the Pope, the King, from whom all the rest expeded to have protection and defence against it, becoming formerly bound by his Proctors to pay this Tenthsleemed to give consent thereto by his filence. Comites vero et Barones ac Laici omnes, plane decimas fe dataros contradirerunt, nolentes Baronias suas vel Laicas Bollessiones Romana Ecclesia obligare. Episcopi quoque & Abbates, Priores et alis Ecclesarum prelati,post trium vel quatuor dierum deliberationem, et murmurationem non modicam, tandem confenserunt, metuentes excommunicationis fontentsam vel interdicti sibi inferri, si mandatis Apostolicis obviarent. The Earls, Barons, and Laity scaping scotfree from this Papal Exaction by their strenuous opposition, when as the King and Clergy bafely and unworthily submitted to it out of fear, to their intollerable oppressi-

on.

An. 1239. The Pope usurping by his Provisions upon the Barons and Patrons Rights and Advowsons in England: Thereupon the Earls, Barons, and other Great men of England, dolentes se privari sua Libertate, & per cupidiratem Romana Ecclesia jure conferendiecclesias enormiter privari, et alienigenas pracepto Papali illis ditari, quorum personas et conditiones penitus ignorabant; sent this notable Letter to the Pope concerning it, by Sir Ro-

"Excellentissimo Patri & Domino G. Dei gratia sum- Mat. Paris, "mo Pontifici, devoti sui de Cestria, & de Wincestria, p.495, 496.

" mo Pontifici, devoti fui de Celtrix, & de Wincettrix, & ce Wincettrix, & &c. falutem, reverentiam promptam & paratam, fi pla"cet, devotionem. Mergente jam navicula nostra liber"tatis, primogenitorum nostrorum sanguine subacta, pro"rumpentibus in nos plus solito perturbantium procellis,
"dormientem Dominum in navicula Petri cogimur exci-

Nota.

c' tare, acclamantes jugiter & una voce : Domine lalva conos, perimus. Ut cum judicium et justitia fint correctio " fedis ejus, unicuique nostrum jus sunm tribuat, & con-"freet illasum. Ne fi secus fierer, corruente charitate, " devotioneque deleta, provocarentur filii contra patris " viscera, & mutuæ dilectionis affectus, subintroducta in-" juria, penitus evanesceret. Cum igitur, fanctistime pater, " a prima Christianitatis fundatione in Anglia; tali sue-"rint hactenus progenitores nostri gavisi libertate, quod "dedecentibus ecclesiarum rectoribus, ecclesiarum pa-"troni personas idoneas eligentes ad easdem Diocesa-" nis præsenraverunt, ab eisdem ecclesiarum regimini præ-"ficiendis: verum vestris temposibus, de conniventia " vettra vel voluntate nescimus, talis contra nos invaluit "adversitas, quod dedecentibus ecclesiarum restoribus, "quidam executores vestri, ad hoc dati, ecclesias de patro-· natu nostro passim conferent, in nostra prajudicium li-"bertatis, & in eminens periculum juris patronalis, licet "fuper hoc pridem cautione literarum Apostolicarum no-"bis prospexeritis, continentium, quod decedentibus ec-" clesiarum personis Italicis vel Romanis, auctoritate pro-"visionis vestræ in Ecclesiis promotis, licite possemus " personas idoneas præsentare: cujus oppositum videmus quotidie demandari, de quo plurimum miramur, cum " non debeat ab uno & eodem fonte aqua dulcis & ama-" ra defluere. Sane licet hac contra nos fit communis pe-"flis introducta, pro qua contentiones, emulationes, ira, "rixa, necnon & cades hominum poterunt fortallis exo-"riri, unius tamen comparium nostrorum affictionem ex-"empli gratia producere decrevimus in medium, ut quod a contra eum & juris sui patronalis periculum hactenus "est improvide procuratum, anctoritate vestra, si placer, "revocetur in irritum. Cum igitur Robertus de Tuinge " patronus ecclesiæ de Luthun, decedente N. Italico, " ejuidem ecclesia rectore, personam idoneam prasentas-" fer ad eandem, obstante mandato vestro; distulit ipsum "admittere dominus Eboracenfis, licet contra personam "præsentatam nihil invenirer quod obsisteret, sed solam inhi Va

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e inhibitionem veltram prætenderet. Verum, cum in incendio vicina domus, nostrarum imminear periculum, c vobis tanguam patri supplicamus, quatenus tam prædic-" jum Robertum, quam nos omnes & fingulos prædicta lid' bertate præsentandi Clericos nostros ad ecclesias nostras avacantes libere uti permittatis : injungentes pradicto Archiepiscopo, quod I. Clericum ad prædicam ecclesiam ab eodem præfentatum, pro quo etiam preces effundimus devotas: præsertim cum sit negotiis Regis & regno nostro necessarius, nisi aliquod canonicum obsti-" terit, non obstance priori mandato vestro, admittat. Ut " ex hoc nos ad propensiorem & famulatum ecclesiæ provocetis. Ne cum fit jus advocationis prædictorum feudorum, pro quibus Do nino nostro militamus, cogamur "illius invocare subsidium, qui jura & libertates laico-" rum protegere tenetur & confovere. Valete.

"Anno 1140. "In octavis vero Epiphania, congregati + Mar. Paris unt Londini Archie afcoți et Epifcopi, cum multis aliis p. 505.

"Magnatibus, prælente etiam Legato, reporentes queri-" moniam coram Rege in curia sua, super variis injuriis & "oppressionibus & quotidianis desolationib is illatis ecclefir, per iniquum Regis confilium, contra fuas chartas, " & juramenta temere veniendo : nec patitur fuis paftori. " bus viduatas ecclesias, respirare, sed ut ab eisdem eccle-" siastica bona variis argumentis extorqueat, annis pluri-" mis eas in manu fua detinet; nec patitur electiones ca-"nonicas celebrari. Super quibus injuriis illaris, & diastim multiplicatis, omnes fe afferent vehem ne radmi-" rari, cum iple Rex toties juraverit, se jura ecclesiaflica "illibata conservare, ipsomet audiente, & cand lam teenente, quod omnes Episcopi, in violatores libertatum "ecclefiafficarum, fimul fententiam fulminabant : in cujus " Ententiæ consummatione, Rex, ut alii, candelam extin-"xit inclinande. Et erant contra Regem in querimonium "Episco corum capitula circiter 30. Et eotenus processum "eit, quod lata fit iterum fententia terribiliter nimis in " omnes Regis confiliatio", qui ejus animum ad prædicta " enormia consbantur inclinare.

In

In the " Parliamentary Council held at Merton An. Par. 20 H.3. Mor. 13. Clauf. 1 2 2 9. Anno, 20 H. 3. cap. 9. All the Bishops 20 H. 3. m. 2. (to fet up the Popes and their own Canons above the Common Law of England) earnestly intreased the Lords, that they would conlent, that those who were born before mitrimony might be legitimare, is wen as those born after mariage, as to hereditary succession, bean ethe Church held fuch for legicimate: et omnes Comites et Barones una voce responderunt, nolumus leges Anglia mutare.

7 2 Inft. p. 79, que bucufque uficate funt o approbate. Li on which Sir. Edw Cook observes; That the Nobility of England, have ever had the Laws of England in great estimation and reverence, as

thefr best birthright.

* Anno 1244. the 28 of Henry the third, Pope Innocent " Mar. Paris, P. 623, 624, fent one Martin his Legate into England, with letters, demanding a large contribution from the Prelates, Ab-Mar. Weftm. bats and Clergy, to be speedily collected as he should di-P. 177. rect; which coming to the knowledge of all the Lords, and Great men, omnes at Bralatos accellerant, ut uno per omnia confilio uterentur, quia hoc negotium generalem statum Regns contingebat. Whereupon all the Prelates by the Lords advice and encouragement denied to grant the

Mat. Westim. An. 1244 P. 180, 181,

625.

Pope any aid at all & fic foluto Concilio recesserunt. Moreover this fame year, "Romana Ecclefia rubore "deposito, tempore novi l'apa Innocentii 4. non cessabat "provisiones cotidianas, redditus impudenter extorque-"re a via antecessorum suorum non exorbitando, imo "manum super omnes aggravando. Exit, igitur murmur ci licet sero, in cordibus Anglorum diu conceptum et re-"tentum, in manifestam querimoniam, et quasi parturi-" entes loqui, non poterant amplius se continere. Pati-" entia enim eorum defidiosa erat, & humilitas infru-" Etuola eft, imo potius & damnofa, et ipfa abutebatur, "Romana proce vicas infatiabilis. Et in unum conbenfentes totins Regni Robiles, Regem efficacissime inener locconvenerunt afferentes le malle mozi quam " amplius tales enormitates tollerare: Non enim co-"rum, neque antecessorum suorum intentio fuit, quan-

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do contulerint bona viris religions, et aliis locis, " pia confideratione confiructis, ut ipla ad arbitrium Pa-" pæ viris Italicis ignotis, et eis quos noverant Simoniis & " usuris pollutos, & viciis multimodis, quibus non est cura " prædicatio vel hospitalitas Christi fidelibus impenden-"da, contribuerent. Rex igitur non mediocriter ad i-"ram provocatus, sciens ac sentiens talibus queremoniis "inelle veritatem, scripfit Domino Papæ verbis humili-"bus & efficacistimis, ut talia studeret paterna solicitu-

"dine corrigere.

e

† The next year, Anno 1245. This Martin violently Mat, Paris, feiling on the lands and profits of divers Churches and re- Mat. Westen. ligious persons; "prorerva & injuriola authoritate, An. 1245, wherein the King protected him against all men, whereby the condition of the Realm became most miserable: thereupon "urgente igitur necessitate totius Regni Anegliæ maxime, præceptim eft ab iplo tempore EX PAR-"TE ALIQUORUM MAGNATUM, pro multiformi, "et incessabile oppressione, et deprædatione Regni dolentium et milerantium, & diligenter die& nocte custoditis "omnibus partibus Anglia, PAPALES LITERÆ qua "quotidie ad emungendam pecuniam portabantur "caperentur. Wherupon the Governour of Dover took one of the Popes Posts laden with such Bulls and Letters to exact monies by divers means, as he arrived at Dover, and took away all his Bulls and Letters, as he was commanded by the Lorde, imprisoning the Post in Dover Cafile: whom the King upon Martins complaint released, cauting the Letters and Bulls to be restored to him "in perniciem Regni, et Honoris sui. Hereupon the Barons and Lords assembled at Laison and Dunstable at Torneyes, and from thence lent one Fulco to Marin, refiding in the New Temple at London, commanding him presently to depart the Realm, or else he and all his should be hewn in pieces within 3 days: who thereupon repairing to the King for protection, and demanding whether this were done by his direction? The King answered, no, Sed BARONES MEI vix se continent , quin consurgant in me,

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dunt depredationes & in prias haltenus tolleravi: Quorum etiam furorem vix compescui, quin et in le ir ruentes le membra. um non dilacerarent. Upon which Martin demanding that the Marthal might convoy him fafe to the Seafide, fled with great halt and fear out of England. After which the king coming to himself, and discerning his Error, by the advice of all the Nobili y of the Realm, there was an elegant Epittle written, wherein the over-execrable exactions of the Pope, and the minifold exactions of his Legates, and of certain men exercising an unheard of power, were contained: wherwith 6 Noble and discreet men elected by the Parliament and universality, were sent to the Council of Lyons, gravem Super his SUPER EXAC. TIONE TRIBUTI, IN QUOD NUNOUAM CON-SENSIT REGNI UNIVERSITAS, coram Concilio que. rimoniam reposituri, et talium recenamen onerum importabilium Regno Anglia miserecorditer impendi rogaturi. The Proxi s of the Parliament, and universality of England arriving at the Council of Lyons, by William de Poweric, their Proctor, propounded their grievances, complaining, That in time of W.r a Tribute was injuriously extorted by the Court of Rome , Quod nunquam Patres Bobilium Regni, vel ipli consenserunt, nec consentiunt, neque in futurum consentient, unae fibi perunt extiberi justit am cum rem. dio. A a quoa Papa (there prefen:) nec oculos elevans, nec yocem, verbum non respondit. Thomas of Walfingham adds, That the Messengers sent to the Council by the king de Confilio Pralatorum, Comitum, Baro um, were purposely sent nt concessioni Regis Johannis de consu annuo pro Anglia & Hibernia contradicerent, eo quoa De Regni affensu non protellerat, Sed et per Archiepiscopum C. ni variensem fueret * Mat. Westm. reclamatum vice toitus Regni . Sed Papa hoc indigere mo-

† Y podigmæ Neuftriæ, P.

60.

* Mar. Paris

p. 646, 647,

648. Mat. Weft. An.

1245.

P. 191.

own Chamber there calually fer on fire. After weh Poweric delivered to the Council the forefaid Epistle,

resa deliberatione respondens: negotium posuit in suspenso.

This detestable Charter of King John being burnt amorght

his writings in this Council, as was reported, in the Popes

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to the Pope, concerning the manifold extortions, irnovations, oppressions of the Church of Rome exercised in England, there recorded at large, and worthy pernial: The clote of which Epillle of all the Baron, is this. That although the King being a Catholike Prince, &c. would continue in the obedience of the See and Church of Rome and feek the increase of her lonour and profit, "jure "tamen Regio, dignitateque Regia plenius conferva-"tis. Nos tamen qui in negotiis fuis por amus ; ondes di-" erum et altum, et quibus una cum iplo Domino Rege, "intendere contervationi Regni diligenter incumbi, ichas opprelliones, Deo et hominibus deteliabiles, & "gravamina nobis in o'eribili. non po'umus aquani-"miter tolerare, net per Dei gratiam amplius tolera. "bimus: Placeat igitur Paterbitati vettræ nanc moulici-Guovem notiram taliter exaudire, quod a Magnatibus "et univerlitate Regni Angliæ, tanquam a tins in "Christochaciffimis, speciales gratias del eatis merito reoportare. The Pope retuling to give any answer or redress thereunto, at last through their importunity, te granted divers privileges to the Churches, Prelates, and Nation of England, tening towards a reformation of Mat. Paris, their grievances; but yet contrary thereunto, increased 677,678,679, their grievances initead of redretting them; whereupon 680 Mar, Anno Dom. 1246, the 30 of Heavy the 3. by the Nobles Westm. An. follicitation, "Medio quadragessima edicto Regio con 1246. p. 206 > "vocato convenir ad Parliamentum generalissimum 207. &c. "totius Regni Anglicant totalis Pobilitas Londini, vi-"delicet , Paalatorum , tam Abbatuum et Paforum , quam Cpiscopozum, Comitum quoque & Baronum, (without any Knights, Citizeus, or Burgettes cholen by the people to represent them in it) "u: de saiu Regni jam vaci lintis, efficaciter, prout exigit urgens necellicas "contractarent. Angebat enim eos gravamen intollera-"le, a Curla Romana incessanter illatum, quod non poterant line Nota delidiæ, et imminenteruina rolerare, "quod Para promissionis sua transgressor, gravius quam "ante eorum querimoniam, manum diatim exasperans, 1g-

grava-

" gravabat, et thoc quasi per contemptum, &c. These Grievances they drew up into 7. Articles, which were read in and approved by the Parliament, this being the tenor of them.

Gravatur regnum Anglia, ex eo quod Dominus Papa, non est contentus subsidio illo quod vocatur Denarius beati Petri, sed à toto Clero Anglia, gravem extorquet contributionem. Fadhuc multa graviora nititur extorquere; Fhoc sa cu sine bomini Regis assensu, bel consensu, contra antiquas Consuctubines, Libertates, et regni jura, es contra appellationem et contraactionem Procuratorum Regis FRegui in generali Concilio sactam.

Item, gravatur Ecclesia et Regnum, eo quod Patroni eccleiarum ad eas cum vacaverint, clericos idoneos prasemare non offunt, prout Dominus Papa ets per literas suas concessit, sed conferuntur Ecclesia Romanis, qui penitus idioma regni ignorant, in periculum animarum, et extra Regnum pecuniam as-

portant, illud ultra modum depauperando.

Item, gravatur in Provisionibus à Domino Papa factis, in pensionibus exigendis, contra literarum suarum tenorem, in quibus continetur, quod ex omnibus retentionibus factis in Anglia, non intendebat conferre, nisi 12 beneficia post pradictarum literarum confectionem; sed credimus multa plura Beneficia ab eodem postea esse collata, et provisiones factas.

r Item, gravatur quod Italicus Italico succedu, et quod Anglici extra Regnum in causis auctoritate Apostolica trahuntur, comra Regni consuetudines, contra sura scripta, eo quod inter inimicos convenire non debent, & contra Indulgentias à pradecessoribus domini Papa, Regi Fregno Anglia concessas.

Item, gravatur ex multiplici advenu illius infamis nuncii, NON OBSTANTE, per quem Juramenti religio, confuetudines antiqua; Scripturarum vigor, concessionum austoritas, statuta, jura et privilegia debilitantur et evanescuut: quod infiniti de regno Anglia oppressi sunt graviter & afflisti, nec se Dominus Papa versus Regnum Anglia in plenisudine sua potestatis revocanda, curialiter ita vel moderate gerit, prout Procuratoribus Regni ore tenus dederat in promissis.

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Item, gravatur in tallagiis generalibus, collectis et assists fine Regis assensu et boluntate satis, contra appellationem et contradictionem Procuratorum Regis & Universitatis Anglia.

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Item gravatur, eo quod in beneficiis Italicorum, nec jura, nec panperum sustentatio, nec hospitalitas, nec divini verbi pradicatio, nec ecclesiarum atilis ornatus, nec animarum cura, nec in ecclesiis divini sunt obsequia, prout decet et mor is est patria, sed in adificiis suis parietes cum tectis corruunt, et penitus lacerantur.

Upon the reading of these Articles, all and every one agreed to send both "folema Letters and Mei-*Mat. Westim; sengers to the Pope, and humbly to intreat him to remove P. 207, these intollerable Grievances and yoaks of bondage; all the Abbots and Priors by themselves, the Bishops by themselves, the King by himself, and all the Earls and Barons by themselves, in their own names, and of the whole Clergy and people of England, writing several Letters to the Pope for this end, tecorded in Matthew Paris; that of the Lords being very memorable, I shall here insert.

" Sanctiffino Patri, &c. Devoti filii, Comes Corni- Mar. Paris, "bix R. S. de Monte Forri Comes Legrecestrix, H. de P. 679. "Boun Comes Herefordia & Effexia, R.de Bigod Comes "Norfolcia, R. Comes Glovernia & Herefordia, R.Co-"mes Wintonia. W. Comes Albemarlia, Comes Oxo-"niensis & alii tottus Anglia Barones, Proceres et " Pagnates at Robiles ; portuum maris nabitatores, "necnon et Clerus et Populus universus, falutem, & de-"bitam tanto Pontifici in omnibus reverentiam. Sic ma. "ter ecclesia tenetur filios suos confovere, iplos sub alas "suas congregando, ut filii sui non degenerent in ob equio " matris lux, sed pro matre, si necesse fuerit, manum suam "mittant ad fortia, & arma et scutum assumentes pro de-" fensione sua euiliber discrimini se opponat, de cujus uberibus lac sugunt consolationis, et ad ipsius dependent " ubera pietatis. Mater enim filiorum uteri sui debet reminisci, ne si secus fiat, lactis pabulum subtrah ndo vi-

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Magnates:

. deatur novercari. Pater etiam à filis suam subtrahens " pierarem, non Parer, sed viericus merito deber appella-"ri, cum filios naturales spurios deputat aut privignos. " Ideirco Pater reverende, currus Ifrael er auriga ejus, ad at alylum veltræ pietatis recurrimus confidenter, clamane res post vos. Implorantes etiam humiliter et devote, constenus ob spem retributionis divinæ, voces claman-"tium post vos dignemini misericorditer exaudire, & "gravaminibus, injuriis et oppressionibus regno Anglia, & domino nostro Regi multipliciter impositis ac illatio welicis falubre remedium adhibere. Alioquin necesse e est ut veniant scandala, clamore populi tam Dominum Regem, quam nos intollerabiliter impellente. Quo-" niam nisi de gravaminibus domino Regi & regno illaris, " Rex & regnum citine liberentur, Dpoztebit nog ponere "murum pao domo Domini et Libertate regni. Quod quidem ob Apoltolica fedis reverentiam buculque fa-"cere diftulimus, net ultra reditum nunciogum noffrorum; qui propter hocad tedem Apottolicam mittentur, "Dissimulare pocerimus, quia regni Anglia tam Clero " quam Populo, qui talia nullatenus fullinebunt, pro bi-" ribns noftris subveniamus. Et nit citius pradicta per " vos corrigancui, pao certo cenear Sancticas veftra, quod onon immerito teneri poreit, quod tam Ecclesia Roma-" næ, quam Domino regi tale periculum immanebit, quod " eidem remedium, quod absir, de sacile non poterit adshiberi.

The King in the mean time, by the Lords advice, sent this Prohibition to the Clergy, not to pay any Tax or Tal*Mat. Westm.loge to the Pope; * H.Dei gratia & c. Venerabili in Christo An. 1146. Petali Episcopo salutem. Licet aliâs vobis scripserimus, semel secundo, & tertio, tam per literas nostras clausas, quam patentes, ne ad opus domini Papa vel alterius tallagium aliquod vel auxilium exigeritis à viris Religiosis, clericis vel laicis, cum nullum huinsmodi tallagium vel auxilium exigi possit vel consueverit sine magno peasudicio Regia dignitatis, quod nullo modo poterimus aut volumus sustinere: Vos tamen mandatum noStrorum in hac parte con emnentes, contra probssionem per

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spagnates nottros, tam Prelatos quam Comites et Barones fadam in Concilio nottro Londonienti : & concef. Jam exactionem faciacis mimoratam, super quo miramur plis. rimum & movemur, prafertim cum facto vestro proprio non erubescitis contraire, cum vos & alii Pralati in pradicto Concilio communiter concesseritis, quod nihil de exactione bujusmodi faceretis, donec nuncii nostri & vestri, necnon & aliorum Magnatum nostrorum & totius universitatis regni nostri à curia Romana redirent , qui pro liberatione oppressionum ad curiam illam, sicut nostis, fuerant specialiter destinati. Vobis igitur mandatis inculcatis mandamus injungentes, firmius & districtius inhibentes, ne ad exactionem pradicts tallagie vel auxilii faciendam aliquatenus procedatis, sicut gandere desideratis Baronia vestra & possessionibus vestris, quas in regno nostro tenetis. Et si quid inde cepsstis, extra regnum no-Strum asportari nullatenus permittatis, fed illud falvo cuftodiri faciatis ufque ad reditum nunciorum pradictorum , indubitanter scituri, quod si secus egeritis, nos ad possessiones vefras manum gravaminis, ultra quam credere velitis, extendemus. Hanc autem inhibitionem vobis in jungimus faciendam Archidiaconis & officialibus vestris, quam quidem pro liberta;e cleri & posuli facimus, novit Deus, &c.

The Messengers sent with these Letters to the Court . Mar. Paris of Rome returning thence, thereupon the same year, De p. 687. translationis beats Thomæ Martyris habitum est MAGNUM CONCILIUM inter Regem et REGNI MAGNATES apud Wintoniam : Wherein, "Nuncii memorati, verba "Papalia, qui nihil mitigationis, imo potius ex feeratio-"nis tenorem continebant nunciantes, & affirmantes, "quod nec in gettu vel verbis Papalibus aliquid humili-" tatis vel moderationis super oppressionibus quibus tam "Regnum quam Ecclesia Anglicana gravabatur et con-"quelta eit, poterant reperire. Dixerat enim Papa, illis "aliquod optabile responsum expectantibus; Rex Anglo-"rum qui jam recalcitrat et Frederizar, fuum habet confi-"lium, ego vero meum habeo, quod et sequar. Et ex tunc " vix aliquis Anglicus in Curia neg otium aliquo | poterat expedire, imo velut scismatici repellabantur omnes,

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o plobris lacellici. Hate autem cum auditier Dominus "Rex cum Magnatibus fuis, commotus eft vehementer & " merito, præcepitque voce præconia in omnibus Comi. "tatibus, per omnes villas et terras, et congregationes " publice acclawari, Ac quis per regnum Papalt contri-"butioni concenticet, bel aliquio pecuniæ in auxili-"um ejus transmitteret. Quon tactum eit. Illud aurem cum auditter Papa, in vehementem iram excap uir, & "iterato asperius Prælatis scripsit Anglicanis, ut sub pæna et excommunicationis & suspensionis, infra festum Assump-"tionis, nuncio suo apud novum Templum Londini com-" moranti, de prædicto auxilio satisfacerent. Et cum con-"flanter pararetur, dominus Rex stare pro regni et Eccle-" fiæ liberatione (comminationibus Comitis Richardi fra-" tris sui, et quorundam Episcoporum, quorum principalis "erat Wigorniensis, cui a Domino Papa concessa suit po-" reltas terram etiam, ut perhibebatur, interdicendi,) fra-" Aus succubuit et perterrieus. Unde totus conatus tam " Magnatum quam Cpiscopojum, et spes de regni et ec-" cleffe Anglicane liberatione miterabiliter, & non fine "muitorum cordium cruento dolore, emarcuit adnihila-" tus, et impune hiatibus Romana avaritia de memo-" rata contributione est satisfactum.

* Mar. Paris , p. 694.

The Pope hereupon taking more boldness than before to trample the English Prelates & Clergy under his feet, & sleece them; "imperiose & solito imperiosius Prælatis "Angliæ demandavit, ut in Anglia omnes beneficiati, "in suis beneficiis residentiam facientes, tertiam partem bonorum suorum Domino Papæ conferrent, non facientes residentiam, dimidiam, multis adjectis durissimis conditionibus prædictum mandatum restringentibus, per illum verbum, et adjectionem detestabilem, NON OBSTANTE, quæ omnem extinguit justitiam præhatistam. The Bishops assembling in convocation to exact it, the King thereupon (by his Nobles advice and instigation) sent Sir John de Lexiton a Knight, and Lawrence St. Marin his Clark to them, strictly commanding them in the kings behalf, not to consent by any means to this

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contribution demanded by the Pope, to the desolation of the English kingdom. The next year 1247. "Vrgente Papalis Mar. Paris, "mandato redivivo de importabili contributione Papalip. 697, 698. "prætacta, ad quam Episcopi in generali Concilio Cle-706, 707. "rum inseliciter obligarent, fecit Dominus Rexp. 220, 221, "MAGNATES SHOS, nec non et Anglia Archidia- 223. "conos per scripta sua Regia Londini convocari. "cum pervenissent die ptafixo, Episcopi omnes sele gratis absentarunt, ne viderentur propriis factis eminus "adverlari. Sciebant enim corda omniu u'que ad a-"nimæ amaritudinem sauciri. Convenerunt tunc ibi-"dem Archidiaconi Anglia, nec non, et totius regni "Cleri pars non minima CUM IPSIS MAGNA-"TIBUS, conquerentes communiter super intolerabilibus "& frequentibus exactionibus Domini Papa, pro qui-"bus & Dominus Rex non mediocriter compatiendo tri-"stabatur. Res enim publica periclatabatur, et commune "negotium regni totius agebatur, & imminebat tam po-"puli quam cleri inanis desolatio et cunciis temporibus "inaudica. After long confultation, the King and No-"bles by common advise resolved, to send a remonstrance of all their grievances, together with Letters, in the name of the whole Parliament and kingdom, to the Pope and his Cardinals, speedily to redress them; which Letters they fealed with the Common Seal of the City of London, & thereby obtained some shew of redress, of their grievances, which the Nobles further profecuted and complained of in another Parliament the selfiame year.

"Dominus Rex comperiens regnum sunm enormiter undique
"periclitari (by the Popes, exactions, taxes, oppositions) *Mat. Westm.
"just OMNEM TOTIUS REGNI NOBILITATEM p. 222.
(ONVOCARI, at de statu institut tam manifeste periclitantis Oxonia contrectarent. Pralatos autem ad boc Parliamentim vocavit auxius, quia videbat cos tam frequenter per Papales exterciones depaugerari, quod frequenta consucudinem, or regni ruinam mamfeste minabatur. Sperabatur igitur communiter aliquod salubre Ecclesia, et universitati ibs statuendum, quod tamen omnes sessellis, through the Prelates

and

and Clergies cowardise, and the kings overmuch compliance with the Pope, the Nobles only continuing contiant in their oppositions against these papal exactions and enormities, being more zealous for the Churches Clergies & Prelates liberties, against the Popes intolerable exactions, oppressions, incroachments, than they themselves, and the only persons who manfully and constantly maintained them, when the King, Prelates and Clergy through fear, cowardise and treachery betrayed and delerted them.

P. 326.

Anno 1264. Pope Urban being much incensed against Mat. Westm. the BARONS spoiling the goods of Ecclesiastical perfon, who were Aliens advanced by his provisions, faid, That he desired to live no longer but till he had subdued the English; whereupon he sent a Legate towards England, a great Person, to wit Sabin a Bishop Cardinal, to interditt the Land and excommunicate THE BARONS the oppugners of his Provisions. But when he would have entred England, he found he could not fafely do it, by reason of the Barons resistance; Whereupon citing some Bishops of the Realm first to Ambayonne, and afterwards to Bo. nonia, " Sententiam excommunicationis et interdictionis " super Civitatem Londoniæ et 5. Portus, necnon & qual. "dam personas illustres ET NOBILES REGNI fulmi. " natum, commist exequendam. At illi Sententiam illam contra justitiam illatam attendentes, appellarunt ad Paor pam, ad meliora tempora, vel ad generale Concilium, " necnon et supremu judice, certis de causis et rationibus " commendabilibus: Quæ postea appellatio, in Anglia con-" gregato apud Radingum Concilio recitata eft, et ab E-" piscopis et Clero approbata et executa. Interdictum auci tem, licet inviti suscipientes a Legato prædicti Episco. "pi fecum detulerunt. Sed cum applicuissent Dove-" riæ. fcrutinio ex more in portu facto, intemeptum eft a "Cibibus, et in minutias bilaneatum jacatur in mare, So little did they then regard, and so much deceit and scorn the Popes unjust Interdict in so just a cause. An. 2 E. T. Rot. Fin. m. 9. in Sched. Cook 4 Inft. p. 13. Pope

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Gregory by his Letters demanding the rent of 1000. marks by the year of K. Ed. the 1. referved for England, upon his regranting the Realm to King John, the king writ thus to him: "Se fine PRÆLATIS ET PROCERIBUS" REGNI NON POSSE RESPONDERE, & quod jure"jurando in coronatione fua fuit affrictus, QUOD Ju"RA REGNI SUI SERVARET ILLIBATA, nec a"In iid quod Diadema tangit Regni ejusem, absque ipiorum requisitus confilio facere. And the Parliament being ended, he could doe nothing without them: who afterwards gallantly opposed his usurpations, as will appear by this following president

*King Edward the 1. in the 29. year of his reign, being * Walfingham fummoned by the Pope, by himself or his Proctors to de-Hist. Angl. p. clare his right to the Realm of Scotland in his Court at 48. to 56.

Rome, where he should receive justice concerning it. The King, p. 88. king thereupon called a Parliament to consult about it to 95. Mat. where he refused to return any answer by himself, but com-Westm. p. 435. mitted it to the Earls and other Lords of the Land to return the Pope an answer thereunto. Who making a large and learned Historical Remonstrance of the subjection of Scotland and her Kings to the Kings of England, and of their Homage done to them in all ages as their Soveraign Lords, sent it to the Pope, with this notable Letter signed

(as Mat. Westminster and *Sir Edward Cook inform us) with * a Institutee, no less than 100 Seals of Arms of Earls and Barons, in the P.98.

name of the whole Parliament and Kingdom.

Santha Romana Ecclesia, per cujus ministerium sides Catholica in suis artibus, cum ea ut sirmiter credimus et tenemus maturitate procedit, quod nulli pre judicare, sed singulorum jura conservari velit illesa. Sane convocato nuper per Serensssimum Dominum nostrum Edwardum, Dei gratia regem Anglia illustrem, Parliamento apud Lincolniam generali, idem Dominus noster quas dam literas Apostolicas, quas super certis negotiis conditionem et statum Regni ex vestra parte receperat in medio exhiberi, ac seriose nobis secit exponi. Quibus auditis & diligenter intellectis, ita sensibus admiranda quam haltenus inaudita in eis audivimus contineri. Scimus

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enim Pater fanctissime, et notorium in partibus nosti is, ac non. nullis aliis non ignotum, quod à prima institutione Regni Ang. lia, Reges ejusaem regni, tam temporibus Britonum, quam Anglorum, superius & directum Dominium regni Scotia ha. buerunt in poffessione, vel capitanei superioritatis et recti Dominii ipsius Scotia successivis temporibus habuerunt, nec ullis temporibus ipsum regnum in temporalibus pertinuit, vel pertinet quovismodo ad Ecclesiam supradictam. Quinimo idem Regnum Scotia dicti Regni nostri Regibus Anglia atque sibi feodale extitit ab ant quo. Nec etiam Reges Scotorum & Regnum, aliis quam Regibus Anglia subsucrunt, vel subjici consueverunt, neque Reges Anglia super suribus suis in reg. no pradicto, aut aliis suis temporalibus, coram aliquo judice ecclesiastico vel saculari, ex Praeminentia Status (na Regia dionitatis et consuerndinis cunctis temporibus irrefragabiliter observata responderunt, aut respondere debebant. Unde habito tractatu et deliberatione diligenti super contentis in Lite. ris vestris memoratis, communis, concors, & unanimus omnium nostrum et singulorum consensus fuit, et erit inconcusse Deo propitio in futurum, quod prafatus Dominus noster Rex super juribus Regni Scotia, aut aliis (uis temporalibus nullatenus re-Spondeat judicialiter coram Vobis, net judicium subeat quoquo modo, ant jura sua predicta in dubium quastionis deducat, nec ad presentiam vestram Procuratores aut nuncios ad hoc mittat : pacique cum pamilla ceberent manifelte in erberedationem juris cozone Regni Anglie, et Regie dignitatis, ac lubberfionem Status ejuloem Regni no: toziam, necnon ab pzzindicium Libertatis, Confuetuofnum et Legum paternarum, ad quarum obferbationem et defenfionem debito prefitti juramenti aftringimur, et que manutenehimus toto polle, totisque biribus cum Dei auxilio defendemus. Rec enim permittimus, nec aliqualiter permittemus, ficut non posiumus, mæmista tam infolita, tam indebita, pazindicialia, & alias inaudi. ta paalibatum dominum regem, etiam fi bellet, facere, feu modo quolibet attemptare. Quapropter fanti siati vestre humiliter supplicamus, quatenus cundem nostrum dominum Regem, qui inter alios Principes orbis terra Catholicum fe exbibet,

Nota.

bibet, et Romana Ecclifia devotum jura lua, Libertates et Consuetudines et leges platitas absque diminutione et inquietudines et leges platitas absque diminutione et inquietudine pacifice possivere, at illibata persistere benignius permittatis. A moit nobie, heroical, loyal, magnanimous Resolution of all the English Peers to their King and Country, even against the Popes incroachments on them, though then their Ghossly Father.

Anno 1307. King Edward the 1. held a Parliment at Mat. Westen. Carlisse, in qua per Majores regni graves deposita sunt queri-p.463,464. monia de oppressionibus Ecclestarum et Monasteriorum multiplicibus extortionibus pecuniarum, per Clericum Domini Papa, Magistrum Gulihelmum de Testa noviter in regnum industis; praceptumque est eidem clerico DE ASSENSU COMITUM & BARONUM, ne de catero talia exequatur; Ordinatum etiam erat quod pro remedio super biis obtinendo, ad

dominum Papam affignati mitterentur Nuncii.

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I shall close up this point with one memorable example, Tho, Walmore, * Anno 1312. there being a great difference be-fingham, Hift, tween King Edward the 2. and his Nobles, about his re- Angl. p. 76. calling Peter Gaverston after a double exile by sentence of the Lords in parliament, who took up arms to expell him by force, and defired the King to confirm and execute certain Ordinances they had made, else they would by strong hand compell him thereunto: hereupon the Popes two Legates then in England, came with the rest of the Prelats of England and Earl of Glocester to St. Albans, to mediate a Peace between the King and Lords: from whence they fent their Clerks to Warhamstede, where the Barons then lay with their Army; cum Literis summi Pontificis eis pro pace roganda directis. Magnates audientes extraneos eis Literas apportate, ipfos quidem pacifice receperunt fed literas recipe= re nolugrunt, dicentes fe non effe literatos, fed armis & militia exercitatos, et ideo videre literas non curarunt. Tunc qui missi fuerant requisierunt, si placeret eis habere colloquium cum Dominis suis, Domini Papa nunciis, qui pro pace reformanda personaliter accedere cupubant. Adhec PROCERES responderant, Se in regno multos habere probos & literatos Episcopos, quorum consiliis uti volebant, et non extrancorum, quibus

quibus non esser cognita causa commetionis sua; practique dixerunt, se nullo modo permissuros ut alignis alteniges na vel sozensis intromitteret ve satissuis, aut guibuscunque negotiis eos tangentibus intra Regnum. Somuch unt the Lords then ilight the Popes Letters and Legates. Nuncii Domini Papa tali modo perterriti in crastino summo mane iter versus Londonias maturarunt, qui apud Sanctum Albanum loci commoditate illesti, moram traxisse per Mensem vel amplius cogitaverant. And so intermedied no more therein.

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* Walfingham Hist. Angl. p. 74,75, &c.

* The same year, Henry de Lacy Earl of Lincoln, lying upon his death-bed, uled this Speech to Thomas Earl of Lancaster his Son-in-law, heir to 5. Earldoms. modo Deus eum pra cunctis in regno ditaverit, honoraverit, & gloria fecer at abundare. Quapropter, ait, et Deum diligere te, et honorare pra cateris obligaris. Cernis Sanctam Ecclesiam Anglicanam honorabilem quondam et liberam, ver Romanorum Oppressiones, & Regum hujus regni injustas Exactio. nes (prob dolor) ancillatam. Vides & plebem regni Tributis & Tallagiis apporiatam, & de conditione Libertatis in servientem actam (a true character of our times, after all our wars for Liberty and Property.) Cernis regni Nobilitatem (quandique toti Christianitati venerabilem) jam ab alienigenis in terra propria vilipensam. Adjuro te igitur per nomen Chri-Stint virum induas, exurgas, et eriges te ad honorem Des & Ecclesia, et patria liberationem : adhibeasque tibi virum frenunm, nobilem & prudentem Guidonem Warwicensem Comitem, cum necesse fuerit de regni tractare negotius, qui & consilio praeminet et maturitate pollet. Non verearis insurgentes adversantes tibi dimicaturo pro veritate. Si his meis monisis acquieveris, in aternum honorem & gloriam consequeru. Whereupon this Earl, pro relevanda fantte matris Ecclesia oppressione et recuperanda regni debita libertate confederated with divers other Earls and Nobles, who electing him for their General, regni Robilium communi Decreti fententia. Then they fem Menengers to the K.to banith Peter Gaverston; which he refusing to doe, they pursued him with their arms, cut off his head, flighted the Popes Letters. Letters and Nuncios; regulated his Extortions, and enforced the King to confirm the Ordinances they made for the redress of all grievances both in Church and State; with the Great Charter, Laws and Liberties of the Church and people, in whose defence and quarrel this Earlasterwards lot his life.

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To these I could annex many other such like Letters, resolutions, oppositions of our Earls, Lords, Barons in Parliament, against the Popes Usurpations, Encroachments, upon the Crowns, Royalties of our Kings, and Liberties, Laws, Customs of our Kingdom, as 21 F. 3. rot. Parl. n. See an Exact 63. 40 E. 3. ror. Parl. n. 8. Cooks 4 Institutes, p. 13, 14. Abridgement 50 E. 3. rot. Parl. n. 85. to 108. 27 E. 3. c. 1. 38 E. 3. c. in the Tower. 4. & 16 R.2. c.5. wherein every one of the Lords temporal in p.64,65. 120, Parliament answered and averred by himself severally and 121, 122, joyntly with the rest, That neither King John nor any other could put himself or his Realm or people into subjection or Tribute unto the Pope, without their common affents: That the fub . mission he made to the Pope, was without their assents, and against his Oath at his Coronation: That if the Pope by process or otherwise would attempt to enforce the King or his Subjects to render him the Services and annual Tribute for England and Ireland, granted him by King John, they would relift and oppose him with all their power: And moreover, That they will stand with the Kings Crown and Royalty in all cases of the Popes usur pations clearly in derogation of the Kings Crown, & in all other cases which shall be attempted against the said Crown and Royalty in all points, with all their power; whose Gallantry, loyalty, stoutness, have been the chief means under God, to enfranchise our Kinge, kingdome, Church, from the manifold Antichristian Tyrannies, Usurpations, Opprettions, Taxes, Vatfallages, Slavery of domineering Popes in all ages, as the premises with other instances sufficiently evidence. And upon this ground it was (by reason of the Popes incessant Usurpations in former times upon the Royalties, Rights, Liberties both of the Crown, Realmand Church of England) that the Nobles in our Parliaments were in the very Writs of Summons ever called thereunto,

thereunto, to confult and treat with the King, Prelats, Lords and Great men of the Realm, of certain weighty and arduous affairs concerning the State and Defence of the Realm, ET ECCLESIÆ ANGLICANÆ, and the Church of England; the Defence of the Church as well as Realm against the Popes incroachments, being one chief bufiness of our Lords and Greatmen in our Parliaments; which now it feems is no part of our New-modelled Parliaments, as fome stile them; there beieg neither DEI GRATIA, nor Statum & defensionem ECCLESIÆ ANGLICANÆ to be found in any of their New Writsthat I have feen; which had been an impious infufferable omission in all former ages : This Clause engaging our Peers so stoutly to refist the Pope as the premites demonstrate: which good service of theirs hoth in common Justice, reason, equity; merited a Place and Vore for them and their Posterities in all our English Parliaments, without any popular election.

Before I proceed to the next reason of our Lords sitting

in Parliament, I shall earnestly importune, yea adjure all the antient Earls, Barons, Nobles and Great men of our Realm; with all who have lately been, or pretend to be any Knights, Citizens, Burgestes of real or pretended Parliaments, our late and prefent swaying Grandees; and all Lawyers, Gentlemen, Freemen of our English Nation, seriously to review, and cordially to ponder all the forecited memorable presidents of their Noble Gallant publike spirited Ancestors, here recited and bundled up together for their information, reformation, and undelayed imitation in this and the precedent reason, both in procuring, regaining, reestablishing the Great Charters of our fundamental Liberties, Rights, Properties, Freedom, with folemn New publications, Excommunications, Execuations, Oaths, Confederacies, Penalties, Laws, Edicts, for their own and their Polterities benefit; In denying, oppoling, resisting all unreasonable or illegal Aids, Subsidie s, Tenths demanded, intreated of, or exacted from them by our

Kings upon real or pretended Necesificies, Wants, Wars,

or desence by Sea and Land; their bold, frequent, unania

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mous, magnanimous reprehensions of our Kings and their evil Countellors to their faces, for their Exorbitances, Milgovernment, Exactions, Oppressions, Violations of their Great Charter, Laws, Liberties, Privileges, Oathe, Promifes, and unnecessary Warrs, or Expences without their publike Counsel or advice : in their resolute inflexia ble unanimous resolutions, oppositions both in and out of Parliaments, against all illegal Papal Encroachments, Usurpations, Exactions on the Rights, Privileges of the Crown, Kingdom, Church, Parliament, Clergy, People, upon every fresh occasion; and in their vigilant, indefatigable zeal, earnest care, diligence, with the hazard of their Limbs, Lives, Liberties, Estates, and estusion of their bloud for the publike Liberty, Freedom, Eafe, weal, good Government of the Nation, according to those wholsom Charters, Laws and Ordinances, which they procured for that end, with much industry, strife and opposition in many successive Parliaments. And then let them all with confusion of face, consternation of spirit and grief of heart feriously consider how stupendiously, monstrously and incredibly they have all for near ten years last past, most defperately apollatized, degenerated both from the Heroick, Noble, Gallant, Memorable Presidents, Practices, Courage, Zeal of these their Renowned Ancestors in every of these particulars, and from their own Praiseworthy Actions, Remonttrances, Councils, Parliamentary and Military proceedings of like Nature under our two last Kings, out of unworthy, un-English, unchristian Cowardize, Fear, Self-love, Sluggifhness, Sottishness, Supineness, after all their late solemn publike Protestations, Remonstrances, Declarations, Vows, Oaths, Leagues, Covenants, near ten years bloudy intestine Wars, the overprodigal expence of many Millions of Treasure, and whole Oceans of precions Christian, Protestant English bloud, for the real, or at least pretended Defence alone, and maintaining, secuting those antient undoubted Fundamental Great Charters, Laws, Liberties, Properties, Privileges and Rights of Parliament, & exempting us from all future arbitrary,

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bitrary, tyrannical, illegal Exactions, Taxes, Excites, Imposts, Imprisonments, restraints, exiles, and executions; which they have now all most ignobly submitted to without the least manly publike or private Opposition, contradiction, or care, activity to break off those iron yoaks of bon tage, and intollerable, perpetual burdens; which some Impudent Intruders, and new Ægyptian Taxmatters have most illegally imposed on them, as if they were all resolved to renounce all their sormer Great Charters, Laws, Liberties, Privileges, and Rights of English Nobles, Parliamentmen, Freemen, and to becom the baselt bondslaves under heaven. So that if these our Nobles Ancestors should now rife from the dead, they might justly stand amazed at this their ignoble, slavish cowardize, and univerfal degeneracy, yea disclaim them as spurious, and none of their heroick English progeny, and they all may justly demand this Question from themselves: Whether they be the genuine off spring of the se their Noble Ancestors, or natural Freeborn English Peers or Freemen, and not rather the degenerate off fpring of Russian Vassals or Turkish Gallystaves, who never knew what English Freedom was? as if now born only to the greatest servitude and Bondage that ever mortals voluntarily submitted unto, through pusillanimous fear or baseness: For alas, where is the Nobleman, Knight, Citizen, Burgess, Lawyer, Gentleman or English Freemen to be found, who now dares manfully to claim, plead, avow, defend, or contend for the undoubted rights and privileges of his own * Peerage, or our Parliaments, the famous * Which some Grand Charters of his own and the Nations Liberty and Freedom, either in or out of Parliament, after fo many old, late military and Parliamentary Contests, Acts, Oathes, Excommunications, Remonstrances, Declarations, Proteflations, Vows, Leagues, Covenants for their inviolable maintenance and defence in every Article, effecially those which concern Peerage, Liberty, Property, Freehold, Life, the Members, privileges of our Parliaments? and that not only against their Soveraign and Superiors, with whom they formerly contested; but even against those

have disclaimed by un-Peering themselves.

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late of pretent domineering Army Officers, and Upstaris. who but a few years fince were not only their fellow Subjells, but their Inferiors in all respects, yea their Mercinary Servants, Hirelings, and Mechanicks of the lowest rank? or against the meanest Publicans, Officers or Excise. men, Governors of our new-moulded Common-wealth, who have trampled our Great Charters, Laws, Liberties, properties and Parliaments themselves under feet, and not only scorn, deride, but disgust the very Name and Mention of " Magna Chartans offenfive to their lawlel's tyran n/, and repute the urging of it to controll their arbitrary . StiledMagna proceedings, encroachments, Taxes, Excises, little leis Farta, by than a capital offence. For proof whereof, I shall instance some Granin One particulat. In August 1650. during my clos: dees. Imprisonment in Dunster Cattle, by Mr. Bradshaw and his Woitehall Affociates lawless warrant, there came an Order from them, and the Committee of the Militia of Somer fetthire, with near 200 pioneers of the County, to flight and demolish that Castle to the Ground, without giving Mr. George Luttrel, then owner thereof, the least notice. thereupon was advised by his Councel, to send a Petition to Whitehall to stay the execution. The Petition then drawn by his Council being long and imperrinent, I did at his Wives requelt, draw up another thort one for him to this effect. That Dunster Castle, was the antient inheritance and chief Seat of his Ancestors and himself, of which many Manors were held by Knight Service and Castle-Gard; That his Father fortified and held it for the Parlsament at his own charge; for which he was kept and died a Prisoner under the King: That his Uncle (who was flain near the Castle) and himself, were both Colonels for the Parliament, serving them gratis without any pay, for which the Kings party had sequestred his estate, felled his woods, seised his rents to the value of ten thousand pounds at least; that the Castle was regained from the Kings party principally by his means, being his only Mansion house: which if now suddenly pulled down, he and his family must lye in the Streets, and he sustain at least birty thou and pounds new damage by it, instead of a recompence:

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pence for his former loffes and publife unmercenary fervices, which would expole both him felf and the to the obloquy of their malignant Enemies. He thereupon humbly prayed, that according to Alagna Charta, he might not be disinherited or diffeised of this his Freehold, without any hearing or Legal trial, by this their Order, but that they would suspend or re. voke it. This petition being fent to London was delive. red to a Creat Lawyer, (one of Mr. Bradhams Affociats, and a then fitting Member) to prefent; who commanded the very name and mention of Magna Charta only to be firuck out, and the rest of the petition to be new written, because the very name of it would give offence or distaste to the COUNCEL at Whitehall, as he affirmed. Which I then

Free-State Tyranny.

'See my New found true by experience, my infilting on it in my *Letters Discovery of to them to demand my Liberty, being so offensive, that they would neither answer, nor read my Letters but with indignation. How others in late and prefent power have vilified and contemned the Great Charter, the petition of Right, and all other Laws in confirmation of it, by diffolving the Houle of Peers, making and unmaking new forms of Parliaments at their pleasures, condemning, beheading Peers and others in new milnamed High Courts of fufice, without trials by their Peers, imprisoning, close im. prisoning, confining, banishing, sequestring, dilinheriting, disofficing Nobles, Parliament-men, and all forts of Free. men at their pleasures, without any lawful cause, hearing or legal trial; by breaking up and ranfacking their houses by armed Soldiers day and night, seising their horfer, arms, Letters, papers, denying to grant them when imprisoned Habeas Corporaes, or to return them when granted, or bayl them when returned; by imposing intollerable, uncessant Taxes, Excises, Imposts, payments, penalties, sequestrations, forfeitures, Treasons, exiles, re-Araints, Engagements, Difabilities on the people; by commanding all Courts of Justice in their new Commonwealth, and all judges and fustices of the same, Sherifs, Committee-men, Attornies, Sollicitors, and all other persons, without any Op-

* See the Whitehall Ordinance for Excise,

1653. & others Position or dispute what soever, to conform themselves to their fince.

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most tyrannical Ordinances touching Taxes, Imposts, Excises, (though to much "decried condemned by two Parliaments and themselves) authorizing their Excisimen and Agents to levy their illegal new kind of Impositions by ex officio Qaths, Di . My first part streffes, Fines, Forfeitures, sequestrations, serfures both of their of a Legal real and personal Estates, breaking up of their houses, (which Vindication, must stand open to their fearches day and night, without oppost - Fundamental tion) by imprisonment of their persons, by indemnifying all Offi - Laws of Eng. cers who fall thus illegally abufe them, giving them good coft sland, p. 67. 10 and damages if fixed, fraying all their actions at Law for their 72. My Protejust relief, and imprisoning all such Lawyers as grand de-Excise, linguents, who shall dare to move for their Liberties, or rlead their causes, (which no one dares doe fince Mr. Comes late case.) And how our New-modelled Parliaments (as fome flile them) inflead of complaining against and regulating these tyrannical oppressions, Exorbitances, Taxes, Ordinances, Excises, and reprehending the Authors of them to their faces, have counteranced them by their ftupid filence, confirmed them by new Edicts, year made it their principal business to burthen our 3. whole Nations with perpetual, endlefs, illegal New Taxes, Exciles, Imposts, Customs, Payments unheard of by our ancestors in any former ages (amounting to more thousand, milliors in one year, than King Henry the 3. whom the Barons fo much opposed and complained against for Exactions, levied upon his Subjects by way of Tax or Ayds, in all his 51 years reign:) yea to null the Great Charter it felf, with all our fundamental Laws, Liberties, and the Privileges, Essence of Parliaments themselves, by secluding, disabling what members they please from sitting, by depriving the people of their Vores, freedom in electing Members, both in antient Boroughs and Counties; by subjecting them to new imprisonments, forfeiteres of Eflate, ife, and trials by Marshal Law in fundry particulars, against this Charter, instead of easing them of their longcontinued, illegal Taxes, Excises, Imposts, Imprisonments, Confinements &c.confirming their former Liberties, Franchifes, Properties, Parliamentary privileges, punishing

the manifold high violations of them, with those ill Counce 1:rs, Projectors, who were the chief contrivers of these intollerable grievances, and resuming the antitient diffipated Lands, Revenues of the Crown, which should defray al publik, ordinary expences: yea; how instrumental some of them have been to promote the desperate

* See my gation, &c.

"deligns, Practifes, Conspiracies of the Pope and Jesuits freech in Par. themselves (now swarming amongst us, under fundry ditliament, and guises) to ruine both onr Kings, Parliaments, Church Epiftle to my and State, is so experimentally visible, and well known to Legal Vindi- them all, that I hope the confideration thereof, compared with the forecited Prefidents of our noble Ancestors and Parliamen's, will strike such a consusion of face, such a compunction of heart into them for this their degeneracy, Apostacy, and breach of publike trust, that they will now at last, to regain their own lost reputations: publikely renounce and abhor their former Exorbitances, and fludy to equalize & outact those their heroick predecesfors, by regaining re-establishing our lost Great Charters, Liws, Properties, Liberties, Parliaments, privileges, Peerage, and make us once more a free, & thereby a happy and united Kingdom, Church, Nation, that so they may be deemed worthy to fit, vote in our future Parliaments.

Mat. Westm.

It is "floried of our renowned, victorious, warlike p. 409. Wal- King Edwardthe I. that in a Parliament held at Westminfingham, Ypo-ster in July 1297. he ascended upon a wooden scaffold digma Neu- before the great hall there, with his Son Prince Edward, firix, p. 83,84. the Archbishop of Canterbury, and Earl of Warmick, and there before all the people standing by; erumpentibus lach ymis veniam de commissis humiliter postulavit; dicens, se minus bene & tranquilliter quam Regem deceret splos rexiste, portiunculas facultatum suarum, quas sibi dederant, seu quas ministri ejus ipfo infcio extor fer ant, ideo acceptaffe, ut in ur ofos hostium conatus, sitientium sanguinem Anglicanum, sumpta Rei publica particula massa quietsus possidendo, potentius expugnaret. Et addens, ecce expositurus meipsum discrimini propter vos, peto si rediero, suscipiatis me velut in presentia habetis, & ABLATA OMNIA RED.

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DAM VOBIS, &c. It our late or prefent all-lwaying Governors, Officers, Swordmen, will now make but the felf same ingenuous acknowledgement as he, before all the people, that they have not governed them fo well and peaceably as they (hould have done, and became them to do; that they and their Officers have much oppressed, extorted from them. not (mall but great sums of Money, by undue and exorbitant means against their wills, though with a publike intention, to conquer those Enemies more effectually who thir sted after English blood, for whose safety they are still ready to adventure their lives : That they have fought their own wealth , advantage, honour, preferment, more than the publike or peoples welfare; thereupon shall with weeping eyes humbly bea pardon of the whole Nation, and those particular persons they have any ways ruined or oppressed, and promise them full reparation of their injuries, and what ever they have unjustly taken from them, as this noble King Edw. did, and confirm and enlarge all their Great Charters, Laws, Liberties, as fully as freely as he then did, upon his Nobles importunity, they may then expect that reciprocal Love and durifull respect to them, as the Archbishop with the people then promised to King Edward and his Son, with firerched out hands, and be deemed worthy to fit and vote in Parliament, notwithstanding their former miscarriages exorbitant arbitrary Ordinances and Provisione, of which if they repent not, I fear in conclusion what

at Oxon, Lewes and London, will be recorded of them. p. 339.
to Posterity; Hac de provisionibus imo DE PRODITIONIBUS Oxon, Lewens. & Londini, dicta sufficiant, & qua variis aquitatis, & institute siccionibus dealbara,
intus autem plena Versuti. Provisores suos pessime
provisores, which some of our sate swaying republican
Legislators have already found true by sad experience.

Fourthly, our (0) Nobles are persons of greater Ettates. (0) See Mr. Families, Fortunes than others, contribute most to all Seldens Tirles publike Taxes, charges, and have more to keep and lose of Honour, than other ordinary Commoners; and therefore in reand Coke 4

i eet of themselves, their families, kinred, tenants, reretainers, allies, have greater interest in the Commonwealth and State affairs than they: We fee by Common experience in all kingdoms, Nations, and our own Realm, that mens great effates innoble, and inable them to bear publike Titles, Places of Honour, Dignity, Truft, Power, as to be Lords, Knights, Efq. Privy Counfellors, Justices, Sherifs, Mayors, Aldermen, and the like, which perions of mean fortunes, unable to support these Dignities, Offices, places of trult and expence likewife, are uncapable or unable to bear or manage: Wherefore our Ancestors thought it meer, just, equal that they should have this privilege among others above ordinary Commoners, to be present in all our Parliaments by Patent and Tenure only, and that of right ex debito justitie; not by election, as Knights, Cicizens, and Burgeffes are, being persons of meaner, estate, quality; and present in Parliament only, in the right of others who elest them, not in their own rights, as the Lords are: whole etlates antiently wire, and still are far more worth, yea their publike payment greater, than many whole Burroughs put together; and their families, retainers, followers, far more in number. And so their engagements to maintain the Laws, Liberties, properties of the Subject; farr greater than inferiour mens. Upon which ground all Barons and * 11 H 4.13. Peers of the Realm, in cases of debt and executions are

Cook 6 Re- free f om arrelts of their bodres, because by reason of port, f. 52, 53. their estates, and Dignicies the Law intends, they have

lar ds and affets to fatisfie all their debts.

(p) Coke 4 Inft. p. 3.

Fifthly, It is one principal property of Members of Parliament to be (p) constant, stout, inflexible, and not to be bowed or turned from the right, the publike good, or liberties, by fear, favour, promises, remards. Now Peers of noble bitth. education, and more generous heroick spirits than the vulgar fort of men, are not to apt to be over-awed with regal threats, terrified with menaces, tempted with honours, preferments, wealth, (which they already injoy in a higher proportion than others) nor feduced with re-

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wards and privat ends from the common good and in ereit * As both (wherein their honour, wealth, fafety are imbarqued;) Houles reas ordinary Commoners, and men of meaner rank an Declaration fortunes are, which experience of former ages, and this of August, present manifeits. Therefore it was thought just and 1642. Exast. reasonable by our Ancestors, that the Nobles in this re- Collection, p. gard should fir in all our Parliaments in their "own rights, 492. without the peoples election; and to leave the people to nendi Parlia. elect fuch other per'ons to repre'ent, affent and vote for ment, Vowel, them in Parliament, in whom they most consided.

Sixthly, our Peers in Parliament " (though they there c. 1. Sixthly, our reers in Patriament, which hath always 12 R. 2. c. ferve for the good of the whole Kingdom, which hath always 12. 23 H. 6. trusted to them , in matters of (curfel, Indicature, and ma- c. 12. 23 H. king Laws) yet they represent no persons but themselves only 6 c. 11. 9 H. or their families, Tenants, Friends , and Allies which de 6, c. 16, 31 pendupon them, and bear their own expences; which are H. 8. c. 11. to great and chargeable, that the t Abbet of St. James 50 E. 3. m. without Northampton, in the Parliament of 12 E. 2. and 137. the Abbot of Leicester in the the 26 of E. 3. being f Mr. Seldens fummoned to Parliament, petitioned and procured Titles of Ho themselves and their successors to be exemped from any nour part. 2. future summons to, and attendance in the Lords Haufe, as Ba- 10 736. rons of the Realm, both because they held no lands of the King by Barony, but only in frank almoign, and their Predeceffors had not formerly or usually been summoned to Parliaments, sed veibus interpolatis only; And likewife, because it would tend to the great grievance and loss of them and their kouses, and much impoverish them, by reason of the great expence it would bring upon them: One Peer, and his retinue expending more every Parliament than the wages of 40 or 50 Knights and Burgesses amount to. Wherefore there is no shadow of reason why the people should elect them, fince they doe not represent them, nor pay them wages, as they doe to their Knights, Citizens, Burgeffes, who serve for, and represent them. Wherefore their Levelling Oppugners may as well argue, That our Nobles ought to be elected by the people to their Honors, Lands, Ellates which descend unto them from their Ancestors, not from the

Coxe 4. last.

the common peo, le, as that they ought to fir in Parliament by the peoples election; only to represent themselves in their ownsight, not the people. And that the Knights of the Shire ought to be esected to their dignity of Knighthood (which the King only confers on them) or to their Lands and Freeholds, which they enjoy in their own right, because they are elected by the Free-holders to fit in Parliament in their right who elected them, not

their own alone, which Barons doe not.

7ly. On these grounds the suppressing, debasing, captivity or flaughter of the Princes, Lords, and Nobles of a kingdom or Nation, is by God himself defined to be, an immediate forerunner, concomitant, caule of the Kingdoms, Nations ruine, and flavery, and a matter of great lamentation. Ezech. 19. 1. 14. c. 17. 12. Lam. 1.6. c. 2. 24. 5. 12. Prov. 19. 10. c. 30. 21. 22. Eccl. 10. 5, 7. I/ay. 3. 4. &c. c. 34. 11, 12, 13.c. 40. 23. c. 43. 28. Jer. 4. 9. c. 27. 20. c. 29. c. 25. 18, 19. c. 50. 35. 41, 51, 55. c. 52. 16. Hof. 7. 16. Amos 2. 15. c. 2. 2, 3. 2 Kings 24. 14. Mich. 3. 7. 2 Chron. 24. 23. Jer. 24. 8, 9. And the continuing of Kings, Princes and Nobles, in honour and power in any kingdom and nation, are reputed and refolved by God to be the greatest honour, happiness, defence, fafety and preservation of that kingdom and people. fer. 17. 24, 25. c. 22. 4 Ecclef. 10. 17. fer. 30. 21. Pfal. 68. 27, 28. Prov. 8. 15, 16. Ifay 32. 1. 1. Chron. 23. 2. &c. c. 28. 1. &c. c. 29. 24, 25. Gen. 17. 6. 16. c. 35. 11. 2 Sam. 11, 12. 1 Chron. 14. 2. c. 28.4, 5. &c. 2 Chron. 2. 11.c. 9.8. I Kings 11. 32, 36. 2 Chron. 21. 6, 7. 2 King. 8. 18, 19. 1 Kings 15, 45. 2 Chron. 23. 3. 11. 20, 21.c. 9. 26: 27. Numb. 24. 7. Ezech. 37, 22, 29. Alich. 2.13. c. 4. 8. Therfore they cannot be rejected suppressed by us now, without apparent danger, ruine and desolation to our kingdom, whatever frantick Levellers and others fancy to the contrary, who would be more than Kings and Lords themselves over the Nation, could they ouce suppress both King and Lords, as they design and endeavour.

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By all which premites it is most apparent, That our Lords and Barons fitting, voting in Parliament, (who if you take them poll by poll, have in all ages been more able Parliament men, States men in all respects, than the Commons, though chosen by the people, who alwayes make not choice of the best and wiselt men, as experience manifelts) is not only just, lawfull in respect of Right and Title, but originally inflicted upon fuch grounds of Rea. fon, Jastice, Equity, Policy, as no rational understanding min can diflike or contradict, but must subscribe to, as necessary and convenient; and so still to be continued, Supported in this their Right and Honour, to * moderate + Exact colthe Excesses, Encroachments both of King and Commons one lection, p. 320, upon the other, and keep both of them within the r just and an. 321, 312. tient bounds, for the kingdoms peace and safety. The rather, for that the very Act made this Parliament for the preventing of inconveniences happening through the long intermission of Pa-liaments, not only enacts, and requires, ALL the Lords and Barons of this Realm, to meet and lit in every Parliament, under a penalty; but lizew. fe prescribes an Oath to the Lord Keeper and Commissioners of the Great Seal under severe pe. nilities to fend forth Writs of Summons to Parl. TO THEM ALL, and in their default, enables and enjoyns the Peers of the Realm, or any twelve or more of them, to iffue forth Writs of Summons to Parliament under the Great Seal of England, for the electing of Knights, Citizens and Burgeffes: which Act will be meerly void and nugatory, if their Votes and Right to fit in Parliament be denyed, or the House of Peers reduced to the House of Commons, which this very Statute doth diffinguish.

Now whereas our whimfical Lilburnifts and Levellers Object . object; that the Lords have no right to fit or vote in our Parliaments, because they are not elected as Knights and Burgesses by the people, under which Notion alone, when thus elected, they will admit them a place and vote in the Commons house, but not otherwise. I must inform these Answer. Ignoramuses, that by the Laws, Statutes of our Realm, and the custom, resolution of our Parliaments, the Earls,

Lords

Lords and Barons of the Realm, are altogether uncapable of being elected Knights or Bargesses to serve in Paris. ment, and their elections as such; meetly void and null in Law to all intents. This is most apparent, 1. By the very words of the writs of Summons to the Lords: where-

*Cook 4 In-by they are summoned * Nobiscum & cum cateris Pralatu, flit, p. 16. Magnatibus et Proceribus dicti Regninostri, colloquium has Seldens Titles bere & trastare & c.vestrumque consilium impensuri, &c. not of Honour, p. to treat, confert, and consult with the Knights, Citizens 736 737, 715, and Burgesles. 2. By the express words of the Writs for 722,724,725, the electing of Knights, Citizens and Burgesles, which

have the same clause; and then enjoyn the Sheris's to cause to be elected and returned, duos Milites, magis idoneos & discretos Comitanus pradicti, & de qualibet Civitate duos Cives, & de quolibet Bargo duos Burgenses de discretivibus & migis sufficientibus, & c. ad faziendum et consert endum bin, quatune, & c. Which disables them to elect any Lords of Barons; being no such Knights, Citizens or Burgesses as the writ enjoyns them to elect and return. 3. By all the Statutes for electing Knights, Citizens and Burgesses recorded in Rastall, Til. Parliament; the Lords being not within their words or intention. 4. By the Great Charter of King John, and express Statutes of 5 R. 2. Stat. 2. c. 4. 31 H. 8. c. 10. & Ro. Par. n. 10. which disable them to sit amongst the Common , but only in the Lords house among their Peers. 5. By the very words of the Patents of their

* Seldens Ti- Creation, which authorize and prescribe all Dakes, Earls, tles of Honout Viconis, Barons in direct terms, * Quod in omnibus teneren. part z. c. s. p. tur, trasteniur et reputentur ut Duces, Comites, Barones, & 663,665-1747, quod haredes sui mesculi et eorum quilibet, habeat, teneat & 748.751,757, posside at sevem, locum et bocem in Parliamentis, publis 563.

licis Comitis et Consilis nostris, Heredum et Successoum nostrozum infra Regnum nostrum Anglia, interalios Duces, Comites et Barones (not amongs the Knights, Citizens and Burgesses) ut Duces, Comites et Barones Parliamentozum, Publicozum Comitiozum et Consiliozum; not as Knights, Citizens or Burgesses.

6. By Sir Edward Cooks 4 Institutes, p. 46, 47. and Mr.

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Seldens Titles of Honour, p. 736, 737. Who retolve, That a Baron or Lord of Parliament, is not eligible to be a Knight, Chizen or Burges of the House of Commons, as wis reloved in the case of Thomas Camoyes, who was not only a Baronet, but also a Baron and Lord of Parliament. The Lord Camoyes being elected by the Freeholders of the County of Sarrey for one of the Knights of the Shire to serve in Parliament for them, Anno 7 R. 2. thereupon the King by advice of Council, declared his election to be wall and void in Liw, and commanded a new election of some other sit person to be made in his place, by this memorable Writ, extant on record.

"Rex Vicecomiti Surrie salutem. Quia ut accepi. †Claus. 7 R.z. "mus tu Thomam Camoyes Chivaler, qui Baronettus ett, fi mem. 32. dorcat quamplares antecefforum fuorum extiterunt, ad ef- Tides of Ho-Gendum unum Militum veni neium ad proximum Par-ner, p. 737. Gliamentum nottrum pro Communitate Comitatus præ Cook 4 Inflit. dicti, de attenfu ejusdem Comitarus eligitti. Nos adver P. 47. cereres quod hujulmodi Baronetri ante hac tempoza in " Mittes Comitatus ratione alicujus Parliamenti elegi "minime confueberunt, iplum de officio Wilitis, ad bidum " Parliamentum pro communitate Comitatus pravidi "benturt, eronerart bolumus. Et ideo tibi piacipimus, "quod quendam a inim Mili em idoneum et discretum, " gladio cinctum, in loco fpli us Thomæ elegt, er eum ad "diem et locum Parliam nti prædicti venire facias, cum "plena et sufficienti potellate ad consentiendum hiis qua " inParliamento prædicto, sient juxta tenorem priorisBr -" vis nollri, tibi pro electione hujusmodi militum dire eti, wer nomen ejus Nobis Sciri facias. Tefte Rege apud

"Westmonasierium octavo die Octobris.

7ly, Both Houses of Parliament in their * Remonstrance. Exil C.1. of Nov. 2. 1642. declare and publish in print to all the lection, p. 723, World, This to be so clear and sundamental a privilege 724. of Parliament. That no Member of either House of Parliament is to be taken away 02 detained from the service of the House whereof he is a Member, until such time as that House wath satisfaction concerning the cause, and

the

tre cause be heard in Parliament fift, and dismissed from it. That the whole fredom of Parlament bependeth upon it. For who feeth not that by this means under the preteres of crimes and accufations, fuch or fo many Members of both or either Boules of Parliament may be taken out of it at any time by any persons to sezbe a turn, and to make a MAJOR I AKT of whom they will at pleasure. So as the freedom of Parliament depends th in a great part on this privilege: yea without it, the whole Body of the Parliament will be destroyed by depriving it of its Members by degrees, some at one time, and others at another time, as both Houses further remonstrate in their * Declaration of October 23. lection, p. 654. 1642. Which, as it infallibly demonstrates, that the Lords Houle or Members cannot be taken away, or taken from them against their wils, without the destruction, subverfion of the whole Parliament, of which they are chief Members, the Judicial power of Parliaments reliding principally in that House, if not wholly. So it likewise clearly resolves, that no Peer or Member of the Lords House can be elected a Member of the Commons house: For if the election of the Freeholders, Citizens or Burgeffes of any County, City or Borough of a Duke, Earl, Lord or Baron of the Realm to be a Knight, Citizen, or Burgess in Parliament should be valid in Law, to make them legal, actual Members of the Commons house, it would then lie in their powers to un-Peer, un-Lord and degrade any Nobleman, yea all the Earls, Peers, Lords, Barons of the Realm and their Posterity at their pleasures, to reduce them and the whole House of Peers into the Commons inferiour house, and so quite dissolve the Lords House, in high affront, dishonor of the Lords and their House, and of the Kings Soveraign royal Authority, the fountain of all Honor: and that without any legal trial, or Judgment by their Peers, or just cause of degradation on their parts, against the express words and meaning of Alagna Charta, c. 29. And if any Lords upon such Elections should so far degenerate, debase or degrade themselves, as to accept thereof, and ignobly fit and vote as Members

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of the Commons House; both they and their posterities for fuch an ignoble act meritoriously deserved, to be for ever degraded from their Nobility, and feeluded from all future fitting in the Lords House as Peers, becoming thereby the very thame, toorn, foundal of Nobility, hit only to be ranked with the basest Peasants, to whom these Levellers would now equallize them. Yea, it would be now no less than wilfull perjury in any Freeholders, Cirizens, Burgeffes to elect them Knights or Burgeffes, and in themfelves to accept of such Elections when chosen; and in the whole House of Peers and Commons too, once to permit, allow, approve or connive at fuch elections; after their late Protestation, Vow, and Solemn League and Covenunt to maintain to their power the Rights, Privileges of Parliament, and both Houses of Parliament; whereof this is an unquestionable Right and Privilege; That no Alember of the Lords House should be eletted a Knight, Citizen, Burgels, or brought down from thence to lit only as a Commoner, in the Commons House, so long as he continues a Peer or Membe of the Lords House; (a distinct House from, and superior to the Commons House in all ages, as its Title of the | Lower | Mailbridge, House, and their standing alwayes bare before the Lords, 52 H 2. Prowith other evidences demonstrate) nor any Knight, logue. Cirizen or Burgels, a true real Member of the House of 33 H. S. c. 1. Peers, "unless a Peer by birth or creation; those who are called to it only by general or special Writs, not being fintes, p.450 * cokes 4. Informerly for life or inheritance Peers, Nobles, or holding by Barony of the King, being only " Affifants to the . Cokes 4 In-Lords, as the Judges and others usually are not Members Ric. p. 4, 5. having votes.

It is the opinion of Sir Edward Cook in his Institutes on Littleton, That if the King call any Layman to the Upper Fol. 9. b. house of Parliament generally by his Writ (which he there 16. b. recites) that this alone doth create him a Baron and Lord of Parliament in fee simple, without the word keirs, and emoble both himself and his heirs after him, so as to make them hereditary Barons. And this is the received opinion of most Grandees of the Law, relying only upon his bare Ipse

12 dixit,

dixit, though iometimes miltaken in his Judgement, and frequently in his Records and Presidents whereon hee grounds his Opinion; although he cites no president nor record at all to make good his Assertion in this case. But under the savour of this Great Oracle of Law, I conceive this Opinion of his to be no Law at all, but a meer mistake,

for these ensuing reasons.

1. Because there is not one word or syllable in this general Writ of Summons, that gives him either the Name, Title, Honor or Dignity of a Lord or Baron of the Realm: Therefore it cannot in Law or reason create him such a one. If he were a Knight, an Esquire, a Master, or Gentleman, or Judge, when the Writ was directed to him, it gives him only that Title, and summons him only by it; without stilling him a Lord, Baron, Earl, Viscount or Peer of the Realm at all: Therefore it cannot ennoble nor create him one; much less ennoble his posterity and give him an hereditary Barony without the word heirs, since the Writ is

only personal, directed to himself alone.

2. Because the Kings end and intention in summoning him to Parliament by this Writ is not to ennoble and create him a Lord, Peer, or Baron, much less to ennoble his Posterity after him, but only to consult and treat with him, and the Prelates, Lords, and Nobles of the Realm, concerning the affairs there propounded: As this clause of the Writ demonstrates (which only must ennoble him and his heirs, if any) to come to the Parliament at fuch a day and place, that fo the King may VOBISCUM with him (not his heirs) & cum Pralatis, Magnatibus, & Proce. ribus dicti regni nostri colloqu'um habere & tractatum : Which word, VOBISCUM, being distinguished from cum Pralais, Magnatibus & Proceribus Regni, can not possibly create him, a Lord or Baron, no more than a Prelate of the Realm; the rather because the word Baro, is not in the Writ. Neither can the following clause create him one; Viz. dictis die & loco personaliter intersitis Nobiscum, & cum Pralatis, Magnatibus & Baronibus (upradictis, super dictis Negotiis tractaturis, vestrumque Confilium mall, per with the felle and create the

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filium impensuris : because it neither gives him the name nor stile of a Lord or Nobliman, much less of a Baron, no more than of a Prelate: and fummons him, not to be a Lord, Earl, Prelate of Baron of the Realm, but to be perfo. nally prefent with them (which he may be, though a private perion, and no Lord) and to treat and give his advice with them concerning the businesses there propounded, the only end for which he is summoned; not to be their fellow Peer, Lord or Baron. So that it is against all sence and realon to aver, that such a general Writ as this can create himself, much less his Potterity Lords or Barons of the Realm in perpetuity. It is a rule in Law and oft refolved, "That the Kings grant shall not inure to two intents, nor ! Plowden, pass or give two things at once, especially when one of them only f. 333,334,501 Dyer 348. 1. is expressed, the other not: Therefore this writ of the King 21 E. 4. 46, shall not doe it, to create the party summoned a Baron 48.57.43. meerly by implication, which is not expressed: and to Aff. 15. Coke fummon him to conferr, treat and give his advice in Parlia. I Report. f. ment, which is the only thing intended and clearly ex. 48. 52. 3 Rep. prefled.

8 Rep. f. 55.

3ly, The Writ summons him only to that particular 167. Ashes Parliament then to be held at one certain day and place; not Table, Grant to any other, much less to all future Parliaments to be le Roy 46. held: Therefore it cannot create him and his heirs here. ditary Barons and Members of the Lords House; no more than the Writ for electing Knights, Citizens and Burgelfes for that particular Parliament, makes them and their posterity, Knights, Citizens and Burgeiles of Parliament for perpetuity: It being both contrary to the words and intention of the Writ, to make him, much less his heirs, Members of all succeeding Parliaments, to which they

must still be summoned by New Writs.

4ly. No Lord or Baron is or can be legally created, but of some particular place, Town, City, or the like, whereof he is stiled Earl, Lord, or Baron: But the general writ of fummons gives him no fuch particular stile or title of dignity; confined to fuch a certain place. Therefore it cannot create him either a Lord or Baron, or if it doth it muit be fine titulo, which were ablurd.

5ly. No Duke, Earl, when created Viscount, Lord, or Baron, is or can be created a Peer of the Realm by the Kings Letters Patents for life, in tayl, or fee simple, without expresse words in the Patent creating him such a one for life, or him, and the heirs males of his body, or his heirs in general, Dukes, Marquesses, Viscounts, Earls, Lords or Barons of such a particular place; as all their Patents (whereof you have fundry Prefidents in Mr. Seldens Titles of hononr, lib. 2. ch. 5. throughout) and our books of Heraldry plentifully manifest; And in all late Patents of creation fince 20 H. 8. of any Dukes, Mar. quesses, Earls, Viscounts, or Barons, there is a special clause interted, enabling them and their beirs males, and every of them, to have hold and possess a seat and place in the Parlians. of us, our heirs and Successors, within the Realm of England. among other Dukes, Marqueffes, Earls, Viscounts, Lords and Barons of the Realm, as a Duke, Marqueffe, Earl, Viscount, Lord, or Baron, as "Mr. Selden and their Patents 2. p. 663,665, inform us, and I have formerly touched p. 49. If then the 747,748,751, king by his Letters Patents cannot create men Nobles and Peers of Parliament for life, in tail, or fee simple, without these special and particular clauses; then by the felf same reason he cannot create them such by his writ, unlesse it hath such special words and clauses in it, and not by the general writ of fummons forementioned, whereinthere is not one clause or syllable tending to such a particular, personal, or hereditary creation. The ra-

ther because * Sir Edward Cook himself confesseth, that * I Inft. f. 16. the Creation by Letters Patents is the surer, though by writ be the antienter way; for he and his posterity may sufficiently be created and made Noble by Letters Patents, though he to whom they were first made never fate in Parliament. Whereas this write hath no operation or effect to enoble him or his poster rity, unless and until he actually sit in Parliament; for if he die before he fit, or fit not at all, neither he nor his iffue are

Noble.

This diffinction and concession of his contradicts his

* Titles of Honour, lib.

757, 763.

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former opinion, That the Writ it self doth not ennoble the person and his heirs; for if it did, then he and they should be ennobled by it, though he died before he sate in Parliament, because they are thus ennobled by Letters Patents which create them Nobles or Peers, and make them actually such, though they never sit in Parliament.

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7ly. Sir Edward Cook in his 4 Institutes, p. 44, 45. thus relolves. If the King by his Writ calleth any Knight or Efquire to be a Lord of the Parliament, he cannot refuse to serve the King there in communi illo confilio, for the good of his Country. But if the King had called an Abbot, Peer, or other regular Prelate by Writ to the Parliament to the Common Council of the Realm, if he held not of the King per Baroniam, he might refuse to sit in Parliament, because quoad lecularia, he was mort ous in lege, and therefore not capable to have a voice or place in Parliament unless he did hold per Batoniam, and were to that CommonCouncil called by Writ, which made him capable. And though (uch a Prelate regular had been often called by Writ, and had de facto, bad place and ; voice in Parliament; yet if in rei veritate he hold not per Baroniam, HE OUGHT TO BE DISCHARGED OF THAT SERVICE, AND TO SIT NO MORE. + For + Ro, Pat. 26. that the Abby of Leicester was founded by Robert Fitz-Ro- E. 3. part. 1. bert Earl of Leicester (albeit the Patronage came to the m. 21. See Rot. Clauf, Crown by the forfeiture of Simon de Mountford Earl of Lei- in dorf, 11. E. cefter) yet being of a Subjects foundation, it could not be hol- 3. part 2. m. den per Baroniam, therefore the Abbot had no eapacity to be IIs Religious called to the Parliament, and thereupon the King did grant, qui reignunt per Barony Quod idem Abbas & successores sui de veniendo ad Par- sont tenus liamentum, & Concilia nostra, vel hæredum nostrorum de Venier quieti fint, & exonerati in perpetuum. But all thefe Ca- au Parliament fes above said, and others that might be remembred touching Vid. ibid. 13 this point, as little Rivers do flow from the fountain of Modus E. 3. part tenendi Parliamentum, where it is said, Ad Parliamentum summoneri & venire debent ratione tenura sua om- * Modus te-? nes & singuli Archiepiscopi, Episcopi, Abbates, & Baro- nendi Parl. c. nes, Priores & alii Majores Cleri, qui tenent PER CO-2.

MITATUM

MITATUM VEL BARONIAM, ratione hujufmod! renuræ, & nulli minores niti eorum præfentia necessaria & utilis reputetur. To which purpose he likewise cites the Act of Parliament of 10 H. 2. called the Affize of Clarindon, and the Great Charter of King John in the 17 year of his reign here forecited , p. 21, 30, 31. For Modus tenendi Par liamentum (here so much magnified) I have already p. 20 sufficiently discovered it to be a late forgery, and imposture out of the very Treatise it self, by undeniable proofs, which I wonder Sir Ed. Cook, Mr. Agar, and other precended judicious Antiquaries observed not, being fo obvious; yet though it be an impossure and erronious in other thing. I shall grant it true in this particular here cited. As to the point in controversie; had Sir Ed. Cook here thus distinguished in the case of Laymen, Knights, Equires, as he doth in case of Abbots, Priors, and Religious persons, that if the King had by his Writ called any Laymen, Knight of Elquire to the Lords House of Parliament by his general Writ, who held of him in fee or fee tayl, per Baroniam, and was a Baron by tenure, that this had enobled him and his posterity as Barons, & he could not refuse to serve the King as a Baron in this Common Councel for the good of his Country; his opinion might have passed for good Law: For such who had lands in fee, or fee tayl of the King by an intire Barony, being Barons and Peers of the Realm by their very tenures, ought of right, by the express words of the Statute of Clarindon, the Great Charter of King John, and by the Common Law and Cultom of the Realm, to be summoned as Rarons by the Kings special writs directed to them, to all Parliaments and great Councils of the Realm, by vertue of their Tenures, as well as Bishops, Abbots, Peers, and other regular Prelates who held by Barony; yet the writ in this cale doth not make them and their heirs Barons by writ, nor give them a right to fit and vote in Parliament; but only declare them and their heirs to be Barons, and to fit there as Barons by their Tenure, not by vertue of he Writ it felf. But if the King by this general Writ lum-

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fummon any Layman, Knight or Efquire to the Lords House, who holds not by Barony, this doth no more make him a Lord or Baron in perpetuity to him and his heirs, nor no more oblige him or his heirs to fit there than Abboes, but that they may refule to ferve in Parliam. if he were no Peer before, being not obliged by any Law to fit and ferve therein as a Baron or Member of the House of Peers, by the Writ alone, which doth not bind an Abbot, Prior, or regular Prelate, or ennoble him and his Successors to be Peers and Barons of the Realm, though they hold only b; Frankalmoign, not by Barony: the Tenure By Barony being that alone which obligeth both of them to fit and ferve in Parliament, unleffe they be created Dukes, Earls, Viscounts, Lords, Peers, or Barons by Patent, or elfe by a special Wrir, wherein Dorf. Clauf. the estate and dignity of a Bar on is both created and limited, 27 H. 8 m. as in the (o) Writ that created Sir Honry de Bromflet Baron Titles of Hoof Vescey, in the 27 year of King Henry the 6 where after the nour, p. 541. Nullacenus omittatis, this Clause is inserted, Volumus enim vos or haredes vestros masculos de corpore vestro legitime exeuntes BARONES DE MESCY EXISTERE, Tefte, de. If a Laymin who holds not by Barony be created a Duke, Earl, Baron, or other Peer of the Realm for life, in tayl, or in fee by Letters Patents, or an Abbot or Prior who holds not by Barony, and his Successors be created Lords of Parliament, by a special Patent of the King, as (p) Richard Banham Abbot of Tavestoke, and his (p) Par, s. H. Successors were by King Hen. the 8. to whom the King gran . 8. part 2.m. 12. ed by Special words , Ut corum quilibet qui pro tempore fuerit Seldens Ti-Abbas, st O erit unus de Spiritual bus Greligiosis DOMI-NIS PARLIAMENTI NOSTRI havedum & suc- Sir Edward cefforum nostrorum, gaudendo honore, Privilegio, & liberta- Cook 4 Inft. ribus ejusdem: This obligeth them to appear and serve in P. 45. Parliament upon every Writ of Summons, and they their heirs males and Successors cannor refuse to serve, or voluntarily absent themselves without cause or license, under pain of being fined, and otherwise punished for their contempt, because bound therto by their voluntary accep-

tle of Honour,

tance

tance of such a special Patent and dignity. But if they be fummoned only by a general Writ, against their wills being no Lords of Parl. by special Patent or Writ before, his doth neither make the one nor other Barons, nor enneble their heirs males, or successors, nor oblige them to ferve, nor subject them to any fine for concempt : for then the King by his Writ might fummon all the Knights, Elquires, Gentlemen, and any other Commoner, Freeman, Lawyer, Clergy man of the Realm to the Lords Houfe, as a Member at his pleasure, and fine them for a contempt in not appearing, and thereby increase that House in infinitum, and make it a mungril House of all toris of degrees and profeilions of men, instead of ar Honse of Lords, to its utter subversion, against the fun damental conflicution and privilege of that House; There, fore such Writs of summons must be void and null in Law, as well as the Patent to Abbot Banham (as " Sir Ed, Cook affertsit) for that he was neither Baro, nor held per B.s. roaiam: Now whereas he afferts, That Knights and Eiquires, who hold not by Barony, cannot refuse when fummoned by Wricto ferve the King in Parliament; but vet Abbots and other regular Prelates that hold not by Barony may, because they are dead in Law, as to secular af. fairs, and therefore not capable to have voice in Parliament, unless they hold by Barony, and were called by Writ. This realon of the difference is most absurd and unreasonable. For 1. They are both Subjects to the king alike, and fo both equally obliged to serve and counsel him in Parita-2ly. If their tenures by Barony could make them capable to have place and voice in Parliament, though dead in Law, quoad secularia, then much more the kings and the kingdoms need of their presence, counsel and advice in Parliament, touching the weighty affairs concerning himlelf, and the defence and prefervation of the Realmand Church of England, when specially summoned by his writ to Parliament, 3ly. Though they were dead in some sence only, in respect of their natural capacities to the world; yet in their politick capacities they

* See Cooks
4 Inft. p. 45.
Abbot Banhams cafe.

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were not fo, but fecular still, to fue, purchife, advile, &c. as well as Laymen, in the right of their Houses. 4ly. Parliaments being always fummoned as well to advise of Ecclefiaffical things, touching the Church, as of temroral things concerning the Realm of England; their being dead to the world, quoad fecularia, could no more enable them to refuse to serve in Parliament, then Laymen, quoad Ecclesiastica negotia therein treated of, which concerned the Church: and Laymen (according to the doctrine in Pori hrimes) might as well refule to ferve in Parila. ment, when fummoned, because they were no Ecclesiaft cal or religious persons, who were properly to consult of the affairs of the Church of England; as religious persons be exempted from, and refute to ferve therein, because dead to the world quoad fecularia negotia, concerning the King and Realm of England there debated and conjuited of. 4ly. The true and only ground then why fuch Abbots, Priors, and all other Clergy men, who held not by Baromy might refuse to serve in the Lords House of Parliament, when summoned by Wrie, was this, that they held not of the King by Baron; and upon this ground alone, the Abbot of St. James without Northampton fummoned to Parliament by Writ; Anno 12 Ed. 2. upon his Proctors appearance and Petitions for him in Parliament (recorded at large by "Mr. Selden, out of the Leger " Titles of book of the Abby worthy perulal, being a of full in point H mour, 730, was discharged from his attendance, & his name fruck out 731, 732,733. of the Roll and Register of the Chancery by the Chancellor and his Council, as not one of the lift of those who ought to be himmoned, for this very reason, because NON TE-NET PER BARONIAM, nec de Rege in capite, sed tantum in puram & perpetuam Eleemofynam: Onec ipfe Abbas, nec Predecessores sui, unquam in Cansellaria i rotulari fuerunt (except only in 49 H. 3,m. 10. Schedul, voluntarie) nec ad Parliamentum civati hucufque. UNDE PETIT. Par. 26 E.3. (babuit) remedium. And upon the felf fame reason pares, m. 22. the Abbot of Licesterand his successors were by special Pa. Seldens Titles tent in 26 E. 3. de veniendo ad Parliam. & Cmfilia noftra 734, 735,

+ Selden, ib. P.727.

* Titles of Honour, P. 727.

et naredum coftrorum de catero quieti fint et exempti in perpetuum, (hough this Abbots predecessors had formerly veen tummoned to and fate in Parliaments interpolatis vi. cibas, but not continue; hecause idem Abbas aliquas terras seute ementa de Nobis per Baroniam, seu al o mido con tener per quod ad Parliamenta seu Confilia hoffra benire tencatur. The King reciting this as the only ground or his exemption; and there upon Nolentes Abbat m indebite lie berart; granted him and his fuccessors this Pat not Exemption; upon which his name was cancelled in the + Claufe Roll of 25 E. 3. part I. m. 5. dorfo; an i this written in the margin against it. Abbas Lescestrie cancellatur quia habet cartam Regis quod non compellatur venire ad Parliamenium. And that of Dorf. Clauf. 1 1 E.3. par. 2.m.11. & 13 E.3. par. 2.m. 28. & 1.cited by * Mr. Selden; & Sir Edw. Coke in his Margin; mentioned in a Bill in Parisa. men; Que toutes les religioses que teignont per Barony soyent tenus de venier au Parlament; is also direct in point; That those who hold not by Barony, are not bound to serve in Parl be they Religious persons, or Lay persons, who are not Peers or Lords of Parliament, upon general writs of fummons; fuch Summons of them being AN UNDUE VEXATION OF THEM, as King Edward Hiles it in his Patent, (unless they voluntarily appear upon such a Summons, as this Patent informs us those who were summoned in 49 H. 3. all did.) This reason therefore exempting all Abbots, Peers, and religious persons from service and attendance in the Lords House in Parliaments, though summoned thereto by writ, must necessarily exempt all Knights and Laymen from it, there being the felf fame ground, justice, equity for it in both, yea the felffame unjustice, vexacion, mischief to both; and by consequence the selffame Law. And it this be Law, as these Presidents, Judgements, Records expresly resolve it to be beyond contradiction; Then it inevitably follows, that the General writ of Summons to Parliament alone, doth neither create the persons summoned to it, nor their heirs or fuccessors Barons, Lords or Peers of the Realm, unless

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they hold by Barony, no although they lit once or twice in Parliaments by vertue of them, or interpolatis vicibus but not cominue as the Abbots of Leicester did, for then they could not allege or plead their not holding Lands of the King in Barony, or any other tenure binding them to fit and ferve in Parliament, in bir of the Writs of Summons directed to them, bee: ule thole writs themselves did ennoble and make them, their politerity & fuccellors P ers of Parliament, though they held no Lands by Barony. Say, it is undeniable by fundry prefidents, that the Kings general writs of Summons create none Lords or Peers of Parliament for life or Inheritance, if they hold not by Barony; which I shall evidence by these presidents in point, "To the Parliament of 49 H. 3. there were no less than 64 * Clauf. 49 H. Abbots. 3. Priors, the Mafter of the Temple, and 5. Deans 3. m. 10 doef. of Camedral Churches, namely of York, Exeter, Salisbury in Schedula. Lincoln, Bath and Wells, fummoned by general writs, as the of Honour, p. Bishops, Earls, Barone, and other Nobles were; yer this 723, 724. did not make themselves nor their Successors Barons of Peers of Parliament; for neither of these Deans nor their fuccessors were ever afterwards summoned to Partiament, as they would and must have been, had this writ made them or their successors Barons and Lords: nor any of the Abbots or Priors, but such only who held by Barony, who were constantly summoned, but those who then held not by Barony, or Militare fervitium, if cafually summoned to one Parliament, were yet upon their complaints thereof, omitted and discharged in the next, as the Writs of Summons themselves attett, and (1) Mr. Selden manifelts out of them. There - (1) Titles of fore the Writs did neither create them Barons for life, Honour, p. much leis their fuccessors after them; for then they should 720, to 736. fill have of right been summoned to succeeding Parliaments, and ought not to have been discharged. In the 18 of Ed. 2. (2) A Writ of Summons was fent by the King, Magistro Gilberto de Middleton Archidiacono Northamp (2) Claus. 18 ton, Officiali Cu ia Cantuariensis; & Magistro Roberto de E.2. m.s. Sel-Santo Albano, Decano de Arcubus London. But no writ Honor, p. 721. Was 716.

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was ever directed to them atterwards, but in this one Par-

liament only; therefore it made them not Lords and Ba-

rons for lite, inheritance or fuccession. The like is evident

by the forecited prefidents of the Abbots of St. James &

Leicester and other Priors. So the Gardians of the Spirin.

alties of Bishops during the vacancy, and their V.cars Ge-

nerals during their abience beyond the Seas, have been

frequently functioned to Parliaments by writs: But being

fummoned only as substitutes, or in the right of the Bi-

thoos or Bilhopricks, it made them no Barons or Peers,

Honour, p. 7:0.

neither were they ever effeemed fuch heretofore, or at (3) Titles of this day, as (3) Mr. Selden informs us. And as it was thus amongst Abbots, Priors, Deans, and other Clergy. mer, that these writs made them not Barons for life, nor yet in fuccession: fo by the felifame Law and Reason they made no Laicks who held not by Barony fuch for life or inhericance. Whene we find many such in the summons to Parliament of King Henry 3. Ed. 1,2,3. R. 2. H. 4,5, 6. who were fummoned once, twice or thrice, but never afterwards, nor any of their name or polterity; of which no other folid reason can be given, but that these general writs of fum nons made them neither Barons for life nor inheritance, no more than they did Abbots, Priors or Clergym.n. For example (4) I find Edmond Bar fraff, Ro. Exact Abridg-bert de Crendon, H. Huse, Ater de Estlye, Serton de Hanfla. dorn, and fundry others tummoned by Writ to Parliament in 33 E. I. Peter Corbet, Andrew de Hamloe, Henry Tregor Maurice de Buen, Roger Banuent, and some others in 1 3 E. 2. Simon Ward, Henry Dandle, William Blunt, in 4 E. 3. Roger de Claudes, Ralph de Bevil William de Kinefton * in 14 *And John de E. 3. Ralph Bulmer, Thomas Bugworth, in 22 E. 3. Willi-Leyburn, m. am de Ridehal in 27 E. 3. Robert de Colvil, John de Kirton,

Parliament summons of 37. and one of them again of 388.

3. Henry Quarts, in 6 H. 4. Henry Cuart, in 7 H. 4. Wil-

liam Cherney Chief Justice in 4. & 6 H. 6. But neither of

their persons nor any of their posterity, were ever after

(4) See an ment of the Records in the Tower, and my firft Table thereunto.

14. 17. & 18. John de Wodhurft, John Northwood, John de Strivelin, in the

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summoned that I find to any other Parliaments, as no doubt they would have been, had those their writs of fummons made them Lords and Barons. In the Clause Roll of 5 8.3.m. 12. dorlo, the King lene willis into Ireland to William de Burgh Earl of Ulster, James de Boteler Earl o' Ormond, William de Bremigham Knight, and Walter de Burgh, ttrictly enjoyning them with all speed to come over into England, Nobiscum traltaturi, vestrumque Confilium impersuri, concerning his intended Voyage in perion into Ireland, and ferring the peace and affairs therof : and I read in the " reign of King Henry 3. Edward the 1. 2. and other of our Kings, that the King of Scots and his No- Chron. Join. bles were oft summoned by Writs to our English Parliaments Bromton, col. concerning the affairs of Scotland: yet thefe writs made Paris, p. 431. none of them Peers and Barons of our English Par. 11-826. Hen. de ments. From all which I may fafely conclude, Sir Edward Knyghton de Cooks and others Opinions to be no Law, but a clear mi Eventibus stake; that a general writ of Summons doth, or car cre Walfingham are any who hold not by Barony, Peers or Barons for life, Hift, Angl. p. much lefe in fee or fee-tayl. Therefore such may be after 17, 18, 19. 10 wards elected Knights or Burge ics of Parliament, and be 23-25. 32:33. Members of the Commons house, and refuse to fit or serve 42. 49. to 56. in the Lords house upon summons wi hour contempt or fine : but no Baron or Peer of the Realm may be thus chofen-or neglect his service in the Lords house.

Finally, Mr. Cambden in his Britannia, p. 120, 122. & Apologia, p 11. and Mr. J. Selden in his Titles of Honour, part 2. chap. 5. Sect. 31. p. 708. to 718. affert, That as some Spiritual Barons, who were conceived to be Barons by writ as well as by tenure, though fometimes fummoned to Parliament by writ, were wholly omited at length, as not having of right Woice and Place with the rest, because they held not by Barony; so fundry of the Leffer Barons and Tenants in Capite holding only of the King as Vavafors by Knights fervice, and not by an intire Barony, were likewife excluded the Parliament. and not fummoned thereunte by King John, Henry the 3. & Edw. the 1.

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being not great and konourary Barons, nor having estates sufficient to support that dignity; and that (as Mr. Selden conceives by fome Law made not long befoge the Great Charter of Ring John, procured by MAJURES BA-KUNES; who foreseeing that their power and dignity might suffer much diminuion, if the new tenants in chief, or Patentecs of Escheated Baronies, and the rest that were decayed should have equality with them, and be indifferently Barons of the Kingdom every way as they were, procured a Law in some of the Parliaments that preceded the Great Charter of King John, by which themselves only should hereafter be properly tilled (& summoned as BARONS, and the rest only Tenants in chief, or Knights, which Titles shold be given them, as distinct names from Barons: which could not but much lesen the dignity and honor of the rest. And if so, then queltionless tuch who hold not by an intire Barony, and are not Ma ores Barones by Patent or Inheritance now, cannot be created tuch by a meer general writ of fummons; neither can the King by his general writ create or make them fuch against this antient Law and usage ever fince. And the Earls, Lords and Great honorary Barons, who excluc'ed all such from ficting in Parliament with them as Barons and their Peers then, may much more exclude and refule to admit fuch into their house; or to fit with them if fummoned now; became their dignity, honor, power, would suffer much diminution thereby; and the King might by writ at any time call to many to their House, as might o errop, overvote, and alter their very Contitution as an Houle of Peers.

I shall close up this point of the Lords sole right to sit in Parliament with one or two memorable presidents.

* Y podigmæ Neustriæ, ip. In the 7. year of King Edward 2. 23 * Walsingham stories, in quindena Pascha per Regis brevia citaia sunt generaliter omnes Parliamentales persona pro Parliamento teuendo Londonsis: Sed multis Proceribus pratento teuendo impedimenti causas nibil hac vice factum jus: So

Wallingham Anno 1316. King Edward in the 9th year of his reign, Hift. Angl. p. 86.

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celib avit Concilium apud Clarindon, sed Magnates nolnerunt interesse. Whereupon nothing was there effected. The Lords presence being held then so necessary, that by reason of the ablence of divers of them upon some real or pretended impediments, though all legally fummoned by the Kings writs, nothing was done or concluded by thole who met, who held themselves no compleat or legal Parliament without them. Whereas in the Parliament of 5 E. 2. fome of the Judges and Affiliants devarcing from the Lords, and divers Knights, Citizens and Burgestes from the Commons house, without license, vet the Lords continuing all together, and making Ordinances for regulating the Kings house, and Revenues, the Parliament fill continued, and thele (11) Special (1) Clauf. 5 with were lent to recall the Judges and Lords Affiliants, E. 2. m. 27. " quod redeant exinde, et fine licentia nofira speciali du- dorfo, "rante Parliamento prædicto non recedaris: Et hoc ficont indignationem nostram vitare volueritis, pullo mo-" do omittaris. Tefte Rege apud Haddely, 12 Septemb. "PER CONSILIUM." And this general write was fent to the Sheriff of Yorkeshire, and all other Sherists of England to Summon all the Knights, Citizens and Burgesses in their several Councies, to return thither; or elie to elect other fit persons in their places. (3) "Præ-(2) Claus. 5. cipimus tibi firmiter injungentes, quod illos Milites E. 2, m. 26. Cives & Burgenles de Balliva tua quos nuper ad dorfo. "ira ens Parliamentum nottrum apud London inchoatum, de mindato nostro venire fecisti, et qui ab eodem Parliamento certis de caufis recesserunt, quod "redeant exinde, &c. vel alios ad hoc idoneos loco "iptorum SI AD HOC VACARE NON POS. "SUNT, ufque ad Westmonasterium ad dichum Par-"liamentum quod ibidem duximus continuandum, &c. o proxime futur: ad ultimum, cum sufficienti potestate "Comicatus tui & Civitatum & Burgorum prædictoa rotum ad confentiendum hiis quæ tunc ibidem con-"tigerint ordinari, &c. Telle Rege apud London xi.

cie Octobris. This Parliament being thus continued, Claus. 5 E. 2. m. 25. Special license was granted to some LORDS to goe home, who made Proxies to other Lords to supply their places, by these words, Deputamus in loco nostro in Parliamento: and this in the Writ of Provogation.

This, I hope, will suffice to convince all Levellers and Gainsayers, of the LORDS undoubted antient Hereditary just Right and Title, to sit, vote in all ENGLISH PARLIAMENTS, though not elected by

the people.

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wherein the Lords House sole Right of Judicature in Parliament, without the Commons, is fully cleared by Presidents, Histories, Records in all ages, and undeniable Reasons, and that both in Criminal, Civil, Ecclesiastical Causes of allsorts, as well in cases of Commoners, and Clergymen, as Temporal Peers, & persons of the highest degree, proper for Parliament.

TT is the General confession, resolution, assertion both 1 of (a) Lawyers, Law-books, the Parliament and Sta. (a) 7 H. 6.16. tute of 31 H. 8.c. 10. and all who have written of our 64 30H.6.26. Parliaments; That the Parliament of England is the antien- 1. 33 H.6. 18. teft, honourablest, highest Court and Supremest Judicature in 2, 21 H. 7. 1. the Realm; to whose judicature all other Courts, Persons, Br. Parlia-Subjects of the Realm are subject & accountable for all Inju-ment 28. 14 ries, Opressions, Crimes, Wrongs, Corruptions, Errors, Abuses Dyer, f. 60. Grivances, Misdemeanors, Treasons, Contempts, Frauds, St. Germin, false Judgments, and matters of publike or privat concernment l. 1. c. 26. not properly triable remediable, or punishable in other inferior Plowden, f. Courts of Justice, and that Court to whom all Appeals concer- & 398. Cook ning Misproceedings, Errors or Insuffice in other Courts or 8 Rep. f. 120. places ought to be made, and from whose Injustice and Sentence 9 Report in there is no appeal, but only to another Parliament; as in the case the Epistle, of General Councils (as Divines affert) there is no appeal but 109, 110. 4 to another general Council in Ecclefiastical affairs concer. Inftit, c. 1. ning the Universal Church, or matters of Faith. This hing Cromptons

of Courts, f. 1, 2. Ashes Tables Parliament, sect. 15. Cowels Interpreter, Min-shawes Dictionary, tie. Parliament, Sir Thomas Smith, De Republica Angl. 1, 2, c. 1, 2. Vowel, Cambdens Britannia, Justice Doderidge, Mr. Tate, Mr. Agar.

an unquettionable Principle and Truth, the fole Quettion will be, in what House or Persons in Parliament this Supreme Judicatory, or judicial power resides? Whether in the King alon ? or Lords alone ? or King and Lor s jointly? or in the House of Commons alone? (never made a quallion til now, by Lilburn and Overton) or in the King and House of Peers, not separate from, but joyntly with the Commons House? And for my part I conceive, it refides wholly and folely in the King and House of Lords, not in the House of Commons; which hath no part nor share therein singly considered in it self, nor yet joynt. ly with the King and Lords, but only in some special cales and proceedings, as when and where the King and Lords voluntarily require their concurrence, or where the judgement and proceedings in Parliament are by way of Bill or Act of Parliament; or when a judgement passed or confirmed by Bill or Act to which the Commons confent was requifite, is to be altered or reversed, but in no cafes elfe, that I can find. To make this out beyond contradiction; it must be necessarily granted by all, and cannot be gainfaid or disproved by any, that this Supreme power of Judicature hath been vested in our Great Councils and Parliaments even from their beginning and original institution, it being the antientest, as well as highest and honourablest of all other Courts: That it had this Soveraign Jurisdiction vested in and exercised by it, both under our British, Saxon, Danish and Norman Kings, I have elsewhere evidenced, and shall anon make good by undeniable presidents. Now the Great Parliamentary Councils under them, confifted only of the King, the Ecclesia-Stical and Temporal Lords, Earls, Barons, Nobles, without any Commons House, or Knights of Shires, Citizens or Burgestes elected by the people; as I have already tou-

(b) My H. Burgestes elected by the people; as I have already touftorical Col. ched, and manifested more fully in (b) other Treatifes: yea lection of the the most, best Antiquaries and English Historians I have antient Par-

liaments of England, And 2. & 3. Part of my Legal Vindication, and Historical Collection of the Fundamental Laws of England.

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teen who I reat of our Parliaments (except that Gross Impostor who composed that ridiculous Treatile stiled Alodus tenends Parliamentum, when there was never any Parliament held in any age in England or Ireland, in such minner as he there relates & preferibes, with Sir Edward Cook, and some other injudicious Antiquaries seduced by this pretended, forged Antiquity) have not prefumed to derive the Antiquity of the Knights, Citizens, and Burgetles fummons to, and fi ting in our Parliaments higher than the Parliament held under Henry the I. at Salisbury, Anno Dom. 1116. the 16 year of his reign. To which Polydor Virgil, Hilt. Angl. An. 1116. Judge Dodridge and others in the Antiquity of the Parliamen:s of England , p. 15, 19, 20, 40, 80, 85, 87. Holinfhed in his Chronicle, vol. 3. p. 38, 39. John Speed in his Hillory of Great Britain p. 438, 439, referre their Original, if not the beginning of Parliaments themselves. But under these learned mens correction (who produce no warrant from histories or records in that age for proof of what they affirme) I dare confidently affert, that there is nothing to be found in History or Record to warrant this their fancy; but many direct evidences against it, which I shall briefly clear, being very pertinent to the present controversie, and judicature of the Lords House.

1. It is most clear, that to this Parliamentary Councilheld at Salisbury, Anno 16 H. I. No Commons, Knights Citizens, elected by the people were called by this Kings Writs, as some of these Authors, with the Manuscript of Canterbury positively affert, and others of them seem to incline unto; but only the Lords spiritual and temporal of the Realm, as (c) Holin hed himself relates, whom (c) Chron. (d) Speed Hileth the Estates both Spiritual and Temporal, vol. 3. p. 38. This is evident by (e) Eadmerns who then lived, and thus Great Britain records the proceedings of that convention under this p. 438. King, 1 3 Kal. Aprilis , factus eft Conventus Cpiscopo- (c) Hift. No. rum Abbatum, et Dzincipum totius regni apud Serberi. vor. 1. 5. p. am, cogente eos illuc fanttione Regis Henrici : Which 117. (f) Rog. de Hoved, thus seconds, Comites et Barones 10- pars prior, p.

tius 473

(g) Mat. Par. iins. Anglia and Salisberiam convenerum; who as Mat. Anno 1114. Paris and Mat. Westminster, with them, relate, Jurarum p. 63. Mat. Westminster, with them, relate, Jurarum with the p. 28. fidelitatem Willielmo silio suo. (h) Simeon Dunelmensis Westm. p. 28. tiles it, Convenus **Dptimatum et Baronum totius An**-Reg. Angl. clim, wherein justu Regis omnes Comites et Barones col. 237. cum Clero totius Regni, swore tealty to him and his Son, (i) Col. 1005. as the (i) Chronicle of Brompton also telates: not any of our antien: Historians making mention of any Commons, Knights, Burgesses, but only of Bishops, Abbots, Earls, Lords and Barons of the Realm there present at it.

In this Parliament, after the Earls, Barons, and Great men had done homige to William the Kings Son, and tworn allegiance to him; the Cause and complaint between Ralph Archbishop of Canterbury and Thurstan elected Archbishop of Tork, was there heard and debated, which had been agitated between them a whole year

before. * Thurstan being admonished by Ralph to make his * Mat. Paris Anno 1115.P. Subjection to the See of Canterbury, and to receive his contindon, Hift.1. lecration from him after the eccle fastical and usual manner : 7. P. 380. An- Answered, That he would willingly receive his confectation from him, but he would by no means make that profession of tiq. Eccles. Subjection to the See of Canterbury , which he exacted , but Brit. p. 112, 113. Radulph. only that which Pope Gregory, and after him Pope Honoride Dicero. us the 6. had ordained, who made this agreement be-Anno IIIs. col. 502, 504. tween the two Archbishops of England, Ils neuter alteri sub-Gervalius A- jectionis professionem faceret, nisi tantum ut qui prior ordina-Cantuar. col. tus effet quamdin viveret prior haberetur: quod proprium est 1661, Thomas fer vorum Deigut verahumilitate sibi invicem acclives sint, & Stubs Actus nullus super alium primatus ambitionem ex.rcere debet : Si-Pontif. Ebora- cut Dominus noster Vera humilitatis pradicator & amator cenfium, discipulos suos, de hac re litigantes redarquens, dixiteis, col. 1714. Qui major est vettrum erit omnium minister; Nullus fi-Henry de Knighton de quidem post beatum Augustinum qui non tam Archiepis o-Event. Angl. pus quam Apostolus Anglorum dicendus est) Archiepisco. 1. 2. c. 8. col. porum Cantuarien sium primatum totius Anglia sibi vendicare 2379. Will. prasumpsit, usque ad Theodorum Archiprasulem, eni prop-Malmsbury de Gestis Pon-ter fingularem en Ecclesiastica Disciplina solertiam, omves tif. I.t. P. 232. Anglie Episcoti subjici consenserunt , sient Beda in Ecclepaftica

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astica Historia Anglia testatur: Quamobrem Turstinus nullam aliam subjectionis professionem Cantnatiensi Pontifici facere voluit, nisi quam beatus Papa Gregorius instituit: Ralph on the other fide pleade the subjection of his predeceilors made to his Predecessors; Rex autem Henricus, ubi advertit Turstinum in sua stare pervicatia, aperte protestatus est, illum aut morem antecessorum suorum, tam in professione facienda, quam in aliis dignitaris Ecclesia Cantua. rienjis, ex antiquo jure competentibus executurum, aut Epifo copatu Eboracensi cum benedictione fund tus cariturum. His auditis ille fuo cordis consilio inprameditatus credens, renunciavit Pontificatui; Spondens Regi & Archiepiscopo, se dum viveret illum non reclamaturum, nec aliquam calumaiam inde moturum, qui cunque substitutus fuisset. But Thurstan afterwards repenting of his rashnels, contrary to his agreement in Parliament, going to the Pope, against the Kings command, to the Council at Rhemes, was there confecrated Archbishop of York, by Pope Calineus himfelf, contrary to his promise to the Kings agent, and Canterburies, who there publikely protested against his confecration, without miking any subjection to the See of Canterbury. Whereupon the King prohibited Thurstan to return into England, or any of his Dominions, swearing, that he should never return whiles he lived, unless he would make his subjection to the See of Canterbury: Which Oath he refused to violate at the Popes personal request to him, (though he then absolved him voluntarily from this Oath) faying, " Quod dicit se quoniam Apostolicus est, me à side quam pollicitus sum , absoluturum : Si contra eandem fidem Thurstinum Eboraci recepero, non videtur regia honestati . Eadmerus, L. convenire hujusmodi absolutioni consentire. Quis enim sidem 5.p.125,126.

emplo tam facile absolutione annihilari posse videret.

As in this famous Parliamentary Council of Salisbury, so in all precedent and subsequent Great Gouncils and Conventions during the whole reign of king H. 1. the Prelates, Earls, Barons, spiritual and temporal Lords were only summoned as Members, not any Knights, Citizens,

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[uam cuivis policentis amplius crederetur, cum eam meo ex-

Burgeties, or Commons elected by the people, which I

In a Parliamentary (k) Council in the 1. year of his reign Anno 1100. he was elected and crowned King of Eng. (k) Mar. Pa-land, abolished ill Laws, confirmed King Edwards Laws, ris, p. 53,54 and the Great Charter of Liberties under his Seal , Commu-Eadmerus, ni Concilio Baronum regni : Archiepifco; is, Epifcopis, Co. Hift Novor. micen., Pocceribus, Pagnatibus et Dptimatibus totins 1. 2. Chron. Johan. Brom Regni en notiz, there susserining to tis Charter then granted, 10n, col. 1201, as wineffes; See here, p. 58. 59. The same year, (1) 1202. Malmsbury de Geft, Pajozes natu Angliz et Pagnates terre congregabit Lundonis, by whole advice he maried Mande, daughter of Regum, J. 5. p. 156. See the King of Scots, right heir to the crown of the Saxon Holinshed, line, and anointed and crowned her Queen : there being a Speed, Danigreat debate, (m whether the might lawfully marry; having worn a veil na Monaste y whiles she was young? which was retoled in a Conne lat Lambeth, where Epifcopi, Abbas (1) Simeon Dunelmenfis, tes, Robiles quique, ac religiofi ordinis viri, were a emcol. 226. bica co detciae it; who upon debate refolved she might Chronicon Lawfully marry : as Eadmer us records at large. Tohannis

Bromton, col.

998. Hoveder, annal. pars 1, p. 408. (m) Eadmerus Hift. Novosum, l.
3. page 56, 57, 58.

(p) Eadmerus The next year, Anno 1001. (2) Duke Robert returning 1. 3. p. 58, 59. from the holy Land, and laying claim to the Crown of Will, Malms-England as right heir and eldeft Brother, thereuron King burienfis de Gestis Pontif, Henry, PRINCIPES suspectos, habentes, ne à se instabilint fit fide d filirent, and they suspecting him, ne undique pace J. I. P. L241 potitu , in se legibus efferais desavire ; actum ex consulto est, 114. us certiendo tales exinde fieret, qua miring; quod verebatur excluderet. Sed ubi ad fonfionem fideil ventum eft , TOTA RECNI NOBILITAS, (affembled in a Parliamentary Courcil cum populi numerofitate (who depended on their advice) Anselmum inter se & regem medium fecerunt, quanto ci vice (ui manu in manum porrect a promitteret - Juffis et Sandis Legibus le totum regnum quoad biberet in candis abministraturum. After which, when as upon the report ich I of his Eng-Laws, nmu-So Cototius anted. (1) ter of axon ng a sving Was Ibba: emmight am, I, n of King ili sut pace o est, rex-ATC tary their MANuffis t in

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report of Duke Roberts arival, Statim MA JORES REG. NI, quasi sua sponsionis immemores ad illum relicto Rege, semet transferre parabant. Whereupon Anselm AD U-NATIS PRINCIPIBUS CUNCTIS, shewed to them, and after that to the whole multitude of the Army who came about them, quam exectabiles Dio et emni bono homi . ni forent gut fidem quam Principi suo debebant quoquo modo ; iolarent. Whereupop cuntti ilico spreta vita non sequius eligerent morte procumbere, quam violata fide sua Regem feducere: After which , (o) PRINCIPES utrinque fratium (o) Mat Paris non ferentes diffidium colloquium inierunt, pio & circumsp do p. 55. Chroconfilio MUTUUM ET GENERALE, and by the nicon Johan. (p) Mediation of the NOBLES on both fides an accord Bromton, col. was made between the King and his Brother Robert, prop. 998. ter manifestum jus quod habnit ad regnum possidendum, that Westm. Mar. Robert should receive 3000 marks yearly from England, Paris, Hoveand that the longest liver of them (bould be heir to the o-den, Huntinther, if he died without is ue mile. Hoe autem PER 12 don, Simeon MAGNATES juratum fuit utrinque. (9) Anno 1 202. Chronican there fell out a difference between the King and Anselm, Johan, Bromtouching investitures of Bishops, Anselm refusing to con- ton, an. 1101. fecrate any Bishop, Abbot or Clerk who received inve-Henry de stitures from the King or the hand of any Layman, being de Eventib. against the Decree of the General Council of Rome: where Angl. 1.2. c.8. upon the King fent for him to his Court; where this bu (q) Eadmefiness was at large debated "EPISCOPIS, REGNITUS, Hift. No-"PROCERIBUS QUE, verba hinc inde ferentibus, & vorum, l.3. p. 61,62.Malmsin singulis Regiæ voluntari parere certantibus, imo ne burien, de "Romanæ Pontificis obedientiæ subderetur summopere Gestis Pontif. "infiltentibus." Not long after the King by other Let . l. I. p. 225. ters summons Anselm to appear at Winchester to compose this difference; " Ubi EPISCOPIS TERR & OUE "PRINCIPIEUS sub uno coactis, COMMUNI AS-"SENSU apud Anselmum actum eft; Nuncii prioribus "excellentiores ex utraque parte Romam mitterentur, " Romano Pontifici viva voce exposituri, illum aut à sen-"tentia deceffurum, aut Anselmo, cum luis extra Angliam pulso, totius regni subjectionem et commodum quod inde

"in e nogulis annis habere folebit, perditurum." Which (r) Eadmerus being accordingly purfued, ant (r) favenibus simul et inci-1. 3. P. 66. tantibus Regem Epilcopis, regnique Proceribus, he commanded Anselm to promite to doe him homage, and confecrated all thole to whom he had given investitures The same year 1102. 1) Celewithout retractation. (f) Eadine-b. atum eft generale Concilium Episcopozum et Abbatum rus, 1. 3. P. totins Regni, at St. Peters Church on the West fide of Los-67. Wil. Malmsbury de don : rege annuente huic conventui affuerunt . Anselmo Ar-Gestis Pontif. chiepiscopo petente a Rege, Primates Regni , quatenus Angl. l. I. P. qui que dejus dem Concilii anthoritate decernectur utrinique 218. Hoveden An. 1. p. 020inis concordi , cura et follicitudine ratum fervaretur: 469. Mat. Par. Sic enim neceffe erat, &c. In which Council there were many Laws and Canons made for regulating the Church, p. 56, Matthew Westm. Monks and Clergy . communt confensu Cpiscopo: p. 23. Simeon rum, et Abbatum, et Paincipum totius Regnt, Paincicol, 227, 228, pes Regni omnes tam Eccleffattict quam fecularis oz-Dinis veing present at it; as the marginal Authors at-Abbrev. Chron col. tett, but no Commons, Knights or Burgetfes. 499. Chron.

Johan, Bromton , col. 1000. Antiquitates Eccles, Brit, p. 104, 106. Seldens Titles of Honour, p. 763.

Not long after the same year, Anselm peremptorily refuling to confecrate thole Bishops whom the King inveft. d with a paftoral Staff and Ring, and some of them refigning them as unlawfull, and publikely refuling to be confecrated by fuch an investiture from the king, to his great dishonour, and prejudice of his royal right and preroga-(t) Eadmerus Hift. Nov. 1.3. tive; the (t) king thereupon repaired to Canterbury, where p. 69,70.Wi'. Anselm and he had a sharp contest; At last he requested An elm to goe in person to Rome to procure the Pope to Malms bury de Geft sl'onreverte his decree against investitures, ne ipfe perdendo tif. l. I. p. [uorum jura Antecesforum , eis vilior fiat , who defired 216. Antiq. Eccles. Brit, that this businesse might be deferred till Easter, ut aus P. 105, 106. Godwins Car, of Bishops in the life of Anselm, Radulph, de Dicero col. 499

Chron, Gervafii col, 1658, 1659, Chron, Jo, Bromton, col, 999, Hoveden annal'

pars 1. p. 47.

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pito Episcopozum Regnique Primatum Confilio, qui modo hon affunt, respondeum nine : Which being granted, Anfelmus in Pascha Curiam venit, regns ingennitatem de negotio prasens consuluit, COMMUNIS CONCILII Vocem unam accepis (fo Eadmerus) Convenisur a Rege, & EPISCOPIS ET MAGNATIBUS (fo Malmesbury relates it) ut ipfe Rom im dignatur proficifei, quod alii minus (u) Mar. egerant fua prafentia suppleturus, who thereupon contented Westm. anno togoe, NE CUCTORUM VOLUNTATI DEESSET. 1103. P. 232. (11) M.t. Paris, Matthew Westminster and others write , Mar. Paris, p. that he was then banished out of England for his obiti- 56. Chron. nacy, Regis injusto judicio, and all his temporalties seis. Gervasiii col. ed, which Eadmerus and others write, was not done rus 1, 4, p.76. not executed till after the Popes Decree against the Right of invehitures passed against the King and Anfelms departure from Rome towards England; when the King prohibited him to return into England, unless he would submit to doe him homage, and consecrate Bishops by his investiture, as all our Hutorians accord.

(x) Anno 1 106. Duke Robert coming to his Brother (x) Mar, Par, Ring Henrythe 1. into England to Northampton, to de p. so. Mar, fire him to restore his Brotherly affection to him, where Westminster, of he had deprived him, but could not obtain it. "Rex Hoveden, Si-Gitaque Henricus sentiens conscientiam suam in obtento meon Dunel-"regni cauteriatam, erat quippe eleganter literatus, ut-menlis, o pote a primava atate pracepto patris addictus literis & jam in jure, quod audierat fecreto expeditus, copit arm semetipso impetus infurgentium formidare, & Dei "judicium in ipium fulminare; co quod fratri fuo pri-" mogenito, cui jus tegni manifeste competebat, temere "usurpando, injuste nimis abstulerar. Sed plus timens "homines quam Deum, regni Nobiles primo subdoliscopoliciris inclinando conciliavit, cogitans poltea per er fundacionem Abbatia, quam confiruere propolierat; wde tantainjuria Deo fatisfacere. Pagnatibus igitur "Reant, ob hoc Londonium edicto Kegio convocatis, Rex talibus alloquiis super mel & favum, oleumque, melligis et mollicis blandiens, dixir; Amici & fideles Z 2 " men

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" mei indigenæ ac naturales, nottis veraci fama referente, qualiter frater meus Robertus electus, & per Deum vo-"catus eft, ad regnum Hierosolymitanum sceliciter gu-"bernandum, & quam frontose illud inscelicirer refuta-"verit, merito propterea 2 Deo reprobandus. Nostis et etiam in multis aliis superbiam & ferocitatem illius, "quia Vir bellicofus pacis impatiens eft, vosque scienter " quasi contemptibiles, & quos desides vocat & glutto-"pes, conculcare defiderat. Ego vero Rex humilis & " pacificus, vos in pace, in antiquis vestris libertatibus, " prout crebrius jure jurando promisi, gestio confovere, . & vestris inclinando consiliis, consultius ac mitius, " more mansueti principis, sapienter gubernare, & super "his (fi providericis) scripta subarata roborare, & itera-'s tis inramentis prædicta certissime confirmare: omnia " videlicet, que sanctus Rex Edwardus, Deo inspiran-"te, provide sancivit, inviolabiliter jubeo observari. "Ut mecum fideliter stantes fratris mei, imo et mei, & s totius regni Anglia hostis cruentissimi, injurias potenier, " animole & voluntarie propulsetis. Si enim fortitudine « Anglorum roborer, innanes Normannorum minas ne-"quaquam censeo formidandas, Talibus igitur promissis quæ tamen in fine impudenter violavit, omnium corda se fibi inclinavit, ut pro ipio contra quemliber usque ad "capitis expositionem dimicarent. This Duke thereupon departing into Nermandy, was followed thither by King Henry, who there taking him, together with the Earl of Morton, and other Nobles Prisoners, brought them over to England, where they were adjudged to perpenetual prison by the BARONS, and Duke Robert Robertus vero captus pudoro a et immani morti adjudicatus eft, Henricus vero frater ejus non sustinens ignominiam tan-

(y) DeEvent. to be put to death, as (7) Henry de Knyghton thus relates, Angl.l.2.c.8. Robertus vero captus pudorose et ummani, morti adjudicatus col. 2374.

est, Henricus vero frater ejus non sustinens ignominiam tantam protendere in sanguine sno; institit er go BARONES suos (who passed a sentence on him in a Parliamentary Count cil) ET IMPETRAVIT AB EIS, quod pradictus Robertus debet exoculari, & excecari cum bacillo ardenti. Sis-

que apud Lincolniam perpetuo carceri mancipatus.

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Anno 1107. The King and A felm by the Popes me (z) Eadmerus diation and others coming to an accord; (2) Hereupon the 1. 4. P. 90. 1 King returning into England; advenatis ad Curiam ejus in Pascha Terra Principibus, dilata est Ecclesiarum ordinatio quam Rex je facturum disposuerat, by reason of the Popes coming into France to the Council of Treeis: But afterwards in August, (a) Fallus oft Conbentus Cpilcopo: (a) Eadmerus rum et Abbatum, pariter & Pagnatum (or Procerum) 1. 4. 91, 92. Regnt Londonies in Palatio. Kegis; where; per constium Mat. Weffm. Anleimi, & Procerum Regni, annuit Rex & fta- F. 25, 26. twit, this accord and Decree was made; ut ab eo tempore 60. Hoveden in reliquum, nunquam per donationem baculi Pastoralis, vel An. p. 471. annuli quisquam de Episcopatu vel Abbatia per Regem, vel Simcon Duquamlibet L icam personam investiretur in Anglia: Conce- nelm. Hift. dente etiam Archiepiscopo, ut nullus ad Pralationem electus dulph. de Dipro homagio quod Regi faceret, consecratione suscepti honoris ceto Abbrev. privaretur; which being concluded, Capit Anselmusco- Chron, col. ram Rege Regnique Cpifcopis aique Paincipibus, (00. Anexigere a Gerardo Archiepiscopo Eboracensi professionem de p. 107, 108. Juaobedientia & subjectione, quam non fecerat, ex quo de Godw, in the Episcopatu Herefordensi ad Achiepiscopatum Ehoracensem life of Anselm, translatus fuerat. Ad que cum Rex ipse diceret, sibi quidem non videre necesse, ut professioni quam ordinationis sua tempore Gerardus fecerat, aliam superadderet, prasertim cum licet Eccle siam mutaverit, idem tamen qui fuerat in persona remansit, nec a prima professione absolucus extiterit. Anselmus in prasenti quidem Regis verbis adquievit, ca conditione; ut Gerardus in manum sibi daret, se eandem subjectionem in Archiepiscopatu ei servaturum quam in Episcopatu professus fuerat; Which Gerardus a enting to, and presently performing before them. Exin STATUTUM EST, ut qui ad Episcopatum electi erant, Cantuariam n'est, O ibi dignicatis ipsius benedictionem, ex more susciperent.

In the year 1108. King Henry in the Feast of Pente- (b) Eadmerus cost, advenatis ad Curiam fuam apad Londoniam, cuntis . 4. P. 94.95. Pagnatibus Regni, cum Anselmo Archiepiscopo, et nelm.col. 131. tateris Episcopis Anglia trastavit, concerning the cha- Hoveden, P.

HILY 273.

thiry and against the mariage of Priests and Clergy-mem (concerning which several Laws and Canons were then made and published, with other good secular Lawes against theeves, clipping and falssying of money, &c.) which were thus præsaced. "Hæc sunt Statuta, &c. qua that the statut Anselmus Cantuariensis Archiepiscopus, "Thomas Eboracensis Archiepiscopus electus cum eo, "Dinnesque alst Anglia Episcopi, in præsentia glorios Regis Henrici Asensu Comitum et Baronum suozum, statutum est, &c.

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(c) Eadmerus (c) Anno 1 109, there arising a difference between An-1.4, p. 101, 102, 103, An-felm and Thomas the elect Archbishop of Tork, about his siqu. Eccles. consecration and subjection to Anselm; thereupon An-Brit. p. 107, felm calling the rest of the Bishops to him, by their advice, 108, 119. (unmoned him by 2, Bishops to come to Canterhur; there

Brit. p. 107, felm calling the rest of the Bishops to him, by their advice, fummoned him by 2. Bishops to come to Canterbury, there to receive his confecration, and to make such subjection to him ashe required, unless he could prove he ought to be exempted from it. Whereupon the King fent a Writ to Anselm.under his Seal, to adjourn the difference between Thomas and him till Easter. "EGO enim si infra "prædidum terminum in Angliam rediero Confilto " Difcopozum et Baronum megzum, vos jufte & ho. ce porifice inde concor abo, &c." Upon which Anfelm returned this peremptory answer, not to Thomas, but to the King himfelf. De induciis autem, quas Thoma E-" bor. Archiepisc. dare mandaverat, pro certo scirer, quod er prius par eretur totus membratim dissecari, quam de ne-"gotio, in quo illum contra antiquas fanctorum Patrum "fanctiones, le injufte & adverlus Deum erexille sciebat, " vel ad horam illas aliquando darer." And writ a peremptory Letter to Thomas, not to presume to intermeddle in any kind in the exercise of his pastoral cure, until he had defifted from his rebellion against the See of Canterbury, and done that subjection to himself which his redecessors, Thomas and Gerard, had formerly made out of the antient cultom of their antecessors; charging him without such a profession of subjection, never to receive confectation to that See, under pain of an Anathemas and intery-men

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dicting all the Bilhops of England under pain of Excommunication, not to confecrate him, nor yet to have any Christian communion with him, if confectated by any foraign Bishops. Soon after which Letter Anselm deceafing, the King keeping his Court a London at Pentecost: "Rex Regnt Proceres atque Prafules ad ineundum de "Eboracenii Archiep: contectatione Concilium Londinum "convocavir : Wherein capit agere cum Cpiscopis et "Regni Principibus, quid effet agendum de confecrati-"one electi Eccleine Eboracensi ?" Where Anfelms recited Letter being produced and read, the Earl of Mellens demanded, "Which of the Bishops durst to receive Withat Letter without the affent and command of the "King their Soveraign Lord? Whereupon the Bishops perceiving that the Earl by this question was willing, calumniam movere, qua eos regiæ Majestari obnoxios "faceret, remoti a multitudine, habito confilio staruunt "apud le, suis omnibus, si regia sententia hoc forte Co-"micis inflinctu dictarer, le malle dispoliari, quam iis "quæ Anselmus de prælenti quærela præceperar, non ob-"temperare. Istis ergo firmato Confilio inter fe; they fent for Samson Bp. of Worcester to know his opinion therein: who communing with them, and telling them, that him telf was prefent when as his brother Thomas Archbiff op of York Elect, sum antiquis consuetudinibus, tum invincibilibus allegationibus actas, eandem p ofessionem Lanfranco Archiepifco Cancuarienti, & cuntis fuis fuccefforibus fecit. Thereupon, " " simul omnes Episco; i ad Regem reversi; " funt, constanter & literas quibus Comes sciscitatus fue-1,3.P.103,104. "rat, le suscepisse, & contra eas nulla ratione quicquam "acturos afferentes; Ad quæ, cum idem Comes caput agitaret, autumans jam in illos quali de contemptu Regis "crimen injiciendum, dixit Rex, Quicquid in iis aliorum se sententia fer at, de me constat, quia cum Episcopis sentio, nec e vel ad horam excommunicationem Anielmi subjacere ali. Quibus auditis, gavisi sunt omnes. Ec " quatenus volo. "agentes domino grates pariter conclamaverunt, Anfel-"mum adesses quam, non poterat in corpore degens, jam "mundo

. mundo abienteni caulam Ecclefix iux determinai e. De. cinde, in laudi bus eximii Principis demoratum ett, ac ut "iple dignitatem Primatus Ecclefia Cantuarien fis humili. . ari a nullo permitteret poltulatus; fiquidem in hoc, di-"cunt, consuetudines antiqua er earum confirmationes, " aftipulatione totius regni tub magno Rege Willielmo fac. "ta, necne privilegia qua his priora existunt ab Aposto. " lica Sede, ipfi Ecclesiæ collata corrumperentur, scinde-"rentur, annihilarentur. Adquievit iftis Res, & juffit "ipfarum quoque feripta Auctoritatum, quæ Ecclefia a Can war senfis habebat, fub celeritate afferri, allata reci-" tari. Quod ubi factum eft, inculit. Quid ampling que. erieur? Auctoritates, & privilegia Apostolica Sedis & que et in prasentia Patris & Matris mea, sub testimonio & con. ce firmatione Episcoporum, Abbatum, & Procerum Regni de. ce finita funt, ut quasi de Epistola Anselmi penitus taceatur, ego ci in quastionem muterem, ego novis Ambagibus agitari per-" mitterem ? Immo sciat Thomas se aut subjectionem & ce obedientiam Ecclefia Cantuarienfi ejufg, primatibus ut An. " tecessores sui professi funt, professurum, aut Archiepiscopa-" tui Eboracenfi ex toto ceffurum. Fugat erer, quod vult. " Consideratis itaque Thomas auctoritatibus quibus Ecclesi. ci am Dorobernensem niti, & circumvallari videbat, Spreet tis clericis (uis, quorum se Consilio credidi se sero dolebat, se consra ipfas Auctoritates nolle frare, fed morem Anteceffou rum suorum sequendo & ipsis adquiescere, & Ecclesiam ipet sam deinceps semper diligere velle dixit, & honorare. Praa cepit seitur Rex ut professio, quam Thomas erat facturus in " fui prafentia dilt aretur, feriberetur, sigilloque fuo, nequid in ce ea quovis molimine antequam eam proficiendo Thomas lee geret, mutaretur, fervaretur inclufa. Quod et factum eft. Dominica ergo die quæ fuit IV. Kl. Julii convenc-"runt, jubente Rege, Richardus Londoniensis, Willielmus Wintoniens, Radulphus Roffensis, Herbertus Norwicen-" fis, Radulphus Cistrensis, Radulphus Dunelmensis, & Her-"veus Pangornensis Episcopi in Ecclesia beati Pauli Line " donia pro consecratione Thoma. Inter soliram ergo examinationem, suo loco professionem, de subjectione &

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"obedientia fancia Ecclefia Dorobernons exhibenda Ri"chandre demonicans Episcopuls, qui Thomam etat sacra"turus ab illo exegir. Prosessi sacroque sigillo evoluta
"bi coram omnibus oblataeth, sacroque sigillo evoluta
"& lecta ab equest ira. Ego Thomas Ebotacemis Eccleis consecrandus Metropolitumus profusor subjectionem &
"Canonicam obedieniam santa Dorobernens Ecclesia, &
"cinsulam Ecclesia Primate Canonica eletto, & consecrato, &
"successorium suis Canonica interontatis salva sidelitate Do"nini mei Regis Henrici Anglorum, ecsalva obedienia ex
"parso mea sentuda, quam Thomas Antecessor mens santa
"Romana Ecclesia ex parta sua prosessi est.

Intererat huis officio Prior Ecclesia Dorobernensis " Conradus nomine) & ex Monachis e juldem loci, quamplures, qui pro hoc ipfo, quoniam reseos mixime re-"ipiciebat, illo convereram. Lectam itaque professio. nemenin a Thoma fibi oblaram Richardin Ancistes Londonianfis accipitier, eam nominato Priori & Frarribus "tradicity dicens ; Har Frattes & Domini mei in tefti-"monium auctoritatis vestra Etolesia (usospite, & ipsam vo-"bis faltam in memoriam posteritatis, servate. Deinde a " Radulpho Cite Strensi Episcopo dictum in populo est ipfam confecrationem, ex recto, et antiqua confuerudine "dehere fieri Caninaria" Et adjecie. Verum qui a ip[a Civitas, defuncto Patre nostro Anteimo, nunc qui dem Ponti-" fice curet v sum R gi facratisque or dinibus regni est, acque "Principibus, am bic atque abbu us fedis Episcopo pra aliis posissimum celebrandam, co intuitu, ca ratione quod Episco. " pus Lundoniensis inter alies Episcopes est Decamus Ecclesia " Cantuarienfis, & ideo speciali quadam dignitate, cateris "anteponendus. Ita ergo in Epilcopatum Eboracensem

Cicipere detrectavit a Magistro.

Anno. 1114. King Henry by the admosition of the (d) Eadmerus
Pope, and pravers of the Monks of Canter bury and other, 15.P.109,110.

and above all, being woved by divine instinct. Colscopes

Et Principes Anglio in unum apud Windeshoram fecu ve-

et Principes Anglie in unum apud Windeshoram fecu venice, corum condium inconstituendo Pontifice Cantuariersi volens habere. The King fish pi ched upon Fariciu Ab-

Thomas confecratus elt, suscipiens a Ministro, quod suf-

bot of Abendon, who was there present for that end by the Kings command: Animus tamen Colfcoposum et onogundam Magnatum in alind vergebat, prauptantium, aut quemlibet Episcoporum de ordine Clericali, aut Clericum aliquem de Capella Regis in opus illud afcifci. But when it was objected, that there had been no Archbishop since Augustin, but only one, which was not of the Monattick order, who for that presumption and other perverse things done by him was depoted by the Pope : and therefore they ought not to subvert the antient and authentique custom, when there was no reason or necessity to do it; they were compelled to defift from their enterprise, which they laboured with much endeavour to accomplish whereuron by Gods disposing providence, they suddenly gave their sentence for R alph Bishop of Rochester to be Archbishop, requiring the Kings affent thereunto: who altering his mind concerning promoting the Abbot, willingly gave his affent to Ralph; to whom all the Monks, Elders, and People of Canterbury gave their ready affents. Whereupon two Messengers were sent to Rome to Pope Paschal tor his Pall, with Letters from the King and Bishops of England and Covent of Camerbury, wherein they recite his Election to this See : adding ; Huic electioni affuerant Episcopi, Abbates, et Principes Regni, & magna populi multituao, (to wit of Canterbury, not elected Knights, Citizens or Burgelles) consentiente Domino nostro Rege, et eandem electionem laudante, suaque auctoritate corroborante. The Pope hereupon, with much difficulty, at the earnest intreaty of one Angelm, Nephew to the deceased Angelm, fent a Pall to Ralph by him, together with an angry harsh Letter to the King and Bishops the same year. Whereupon (e) Eodem anno Henricus Rex, juffit omnes Cpifcopos

(e) Eadmerus et Baincipes totius regnt, ad Curiam suam, sub uno venire.

1.5.p.114,115, Unae rumor ver totam terram dispersus est, Pontisicem Cantuariorum Benerale Concilium (prasinte Legato Domini Papa) celebratui um, & nova guadam, tantoque Conventui digna, pro correctione Christiana Religionis in omni ordine promulgaturum. Itag, ut Rex susserat 16 Kal. Octobris Conventus omnitum apud Westmonasterium in palatio

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Regis factus est : O quod de Concilii celebratione, et Christianitatis emendatione, rumor disperserat, nihil fuisse, que confluxerat multitudo tandem advertit: Only the Popes Letter to the King and Bishops (recorded in Eadmerus) was there read. Wherein Pope Paschal setting forth his pretended universal Authority over all Kingdoms and Churches derived from St. Peter; & that no great businesses should be done concerning the Church without him or his Legaces privitie and advice; taxeth the King and English Bishops, for electing, and translating Bishops, holding Synods, Councils, and medling with the affairs of Bishops without his privity; for not permitting any Legats freely to pals into or return from England, without the Kings fpecial license: for hindring Appeals to Rome, and not duly collecting and paying his Peterpence; admonithing them to reform all these their Exorbitances, and concluding with this menace. Si vero adduc in vestra decernitis obstinatia permanere, nos Evangelicum dictum, et Apostolicum exemplum, pedum in vos pulverem excutiemus, & tanquam ab Ecclesia Catholica resilientes, divino judicio trademus. The King hereupon advising with his Bishops and Nobles, what aniwer he should return to the Pope concerning thole things, and certain others which did very much offend his mind, Cono his Legat having suffended and Excommunicated the Bishops of Normandy, to guod Concilus (generalibus) tertso vocati, interesse noluerunt : Placuit in Communt, ut Rex suos Nuncios mitteret per quos que vellet securius Papa mandaret : and withall sent that resolute Letter by them to the Pope here citedp. 108, 109.

(f) An. 1116. When the forecited Parliamentary Coun. (f) Eadmerus cil at Salisbury was held; Anselm returning from Rome, 1,5.p. 118.126 came to the King into Normandy with Letters from the Pope, appointing him his Legate and Vice-pope in England, Quod regno Anglia, brevi innotuit. Admirati ergo Cpiscopt, Abbates et Robiles quique Londonia aduniti sunt, super his, & quibus aam aliis, prasente Regina, communic Consilio trastatur, Quid multa? PLACUIT OMNIBUS, Archiepiscopum Cantuar, quem maxime res, hac respeciebat, Regem adire, & exposita ei antiqua regni consuetu-

dine,

dine, SIMUL AC LIBERTATE, h confesore: Romani ire, ET HAC NOVA ANNIHILARI : amplestion elle confilium; & repairs thereupon to the King, informing him of this the irrefolution; with whom he found Anfelm, waiting for a pallage into England to exercise his Legatine authority. Sed Rex antiquis Anglia consuctudinibus prajudicium inferri non sustinens, illum ab ingressu Angliæ detinebat. Itaque omnis de bujusce potestatis (Legati) exors effectus, a Normanda est in suos regressis.

In the year 1121. K. Henry the 1. (g) Consilio Radulphi

l. 6, p. 136.

(g) Eadmerus Cant. Pontificis et Paincipum Regni quos omnes in Epiphania Domini, jub uno Londonia congregavit, decrevit fibi in uxorem Atheleiden filiam Godfredi Ducis Lotharingia. After which the arriving in England; Convente Cvifcopozum, Paincipum, et Procerum Regnt, qui pro occur (u Regina factus fuerat; the difference between Archbishop Ralph and Thurstan about his subjection to him, was moved: Pope Calix us who ordained him, commanding the King and Archbishop, to permit him to enjoy his Bishoprick; aut Rex anathemate, & Radulphus [uspensone Pontificalis Officii, plecteretur. Hereupon the privileges of the Church of Canterbury (recorded in Eadmerus) were recited, & quam digne Deo hac Apostolica dishonerentur, intellectum est ab omnibus. Tamen ne pramiffa intentio cana, Regem vel Pontificem aliquatenus consurbaret, EX COMMUNI CONCILIO permiffus est idem Thurstinus Angliam redire, & Eboracum Regia via veni e. Quod & factum est, ea dispositione, ut nullatenus extra parochiam Eboracentem divixum officium celebraret, donec Ecclesia Cancuariensi, de injuria, quam ei intulerat, abjurata cordis sui obstinatione satisfaceret.

About the year 1122. (b) Pope Calixim having by force (h) Eadmerus 1.6.p.137,138. deprived Pore Gregory, fent one Peter to be Legare over all Britain, Ireland, and the Orcades, as well as France, who fent fome Abbots and others before him to give notice of his coming, the whole land being aftonished at the expectation of his coming, the King fent the Bishop of Sr. Davies , and another Clerk to him into France where he stayed, to signifie his pleasure and command,

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find into England tohim. The King by prudent countel enjoyned them, That after his entrance in o England, they should so order his journey, that he should not en er into any Church or Monastery f r hospitality or lodging, and that no necessaries should be administred to him from others; but only at his own expence. Being brought to the King and worthily received, he related the cause of his coming: The King pretending an expedition against the Welfh, answered; " Se "tanto negotio operam tune quidem dare non poffe, cum "Legationi: illius stabilem auctoritatem non nifi per connibentiam Cpifcopozum, Abbatum, et Paocerum, et totius regni conventum, robozari polle conftaret, ju-"per hæc, fibi patrias confueradines ab Apottolica fede concessas, nequaquam se aquanimiter amissurum for: " reitabatur (in quibus hac, & de maximis una erat , quæ . Regnum Anglia liberum ab omni Legati ditione contti-"tuerat) donec iple vitæ prælenti superfir. His horum-"que similibus regali facundia editis, græfaius Petrus 'adensumprabere ucile judicavit, & annuit. Quaprop-"ter larga regis munificentia magnifice honoratus, nullo "modo se quicquam antiquæ dignitatis derogaturum, "immo ut dignitatis ipfius gloria undecunque augmenta-"retur, spo pondit plena fide elaboraturum. Pax ita-"que firma inter eos firmata eit, & qui Legati officio "fungi in tota Brirannia venerar, immunis ab omni offi-"cio tali, cum ingenti pompa, via qua venerat extra An-"gliam, a Rege missus est. At Canterbury he perused the antient privileges granted to the Prelates by the See 1 of Rome touching their superiority over Tork: "Quibus "ille perspectis atque perpensis, testatus etiamiple eft, "Ecclesiam Cantuariensem grave nimis immoderatum "præjudicium este perpestam, & quarenus hoc velocius "corrigeretur, fe modis omnibus opem adhibiturum pol-"licitus eft, Post hac Angliam egreditur.

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By all these Parliamentary Councils and Proceedings in them, and the Kings answer to this Legate, it is most apparent from the testimony of Eadmarus (present at most

mott of them) and then antient Hinorians. 1. That they

all consisted during all the reign of King Henry the 1.

of the King, Bishops, Abbots, Earls, Lords and Barons,

without any Knights, Citizens, Burgefles, or Commons elected by the people. 2ly. That not only the legifla-

tive but judicial power or judicature of Parliament in all

civil, ecclefialtical and criminal causes debated or judged

in them, relided wholly in the King, Prelates, Earls, Barons and Nobles, which they joyntly and severally ex-

ercifed by mutual confent, as there was occasion. 31v.

the Parlia-

712,713,717.

That our King, Prelates, Nobles were then all very vigilant, and zealous in opposing the Popes usurpations upon the antient Liberties, Privileges, Customs of the king, kingdom, and Church of England. 4ly. That those (i) See the Antiquity of (i) Antiquaries and others are much miltaken, who affirm, the Commons were called to the Parliament of 16 H. I. ments of Eng-as well as the Peers and Nobles; and that fince that time land, p. 18, the authority of this Court hath stood fetled, and the 19, 40, 80. COMMONALTY had their voice therein, which the faid H. 1. GRANTED TO THEM, in love to the Eng-

lish Nation, being a natural Englishman himself, when as

the Normans were upon terms of revolt from him to his

Brother Robert Duke of Normandie; it being clear by these Histories, and all the Parliamentary Councils under

King Henry the I and under Hen. the 2. King Ric. the I. King John, and Henry the 3. forecited; and here ensuing;

that there were no Knights, Citizens, Burgesies, or Com-(k) In his mons elected by the people; summoned to our Parlia-Britannia, P. ments in their reigns succeeding Henry the 1. therefore 120, 122. sly. That the Opinion of (k) Mr. Cambden, not in his. (1) The Antiquity of the (1) Judge Dodridge, Jo. Holland, (m) Sir Ro. Cotton, (n) Mr. Parliaments Selden and others, is true, that the first Writ of Sumof England, mons of any Knights, Citizens, Burgesses or Commons p. 18, 20, 87 (o Parliament now extant, is no antienter than 49 H. 3. dorf. 10.11. "That King Henry the 3. after the ending ma, p. 346, " of the Barons wars, appointed and ordained, That all 347, 348. (n) Titles of those Earls and Barons of the Realm, to whom the Honour, p. "King himself should vouchsate to send his Writ of Sum-

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"mons should come to his Parliament, and none esse but

"such as should be chosen by the voice of the Burgesses

"and Freemen, by other Writs of the king directed to

sthem: And that this being begun about the end of

"Den. the 3. was perfected and continued by Comard the

"I, and his Successors. Which (o Holinshed, & (p) Speed, (o) Chronicle
do likewise in smale in general terms: So that upon due vol. 3. p. 37, j

consideration of all Hittories, Records, and judicious 38.

Antiquaries, it is most apparent, that the Commons GreatBritain,
had no place nor votes by election in our Parliaments in p. 538,559.

Hen. 1. his reign, nor before the latter end of King H.

3, and Ed. 1. who perfected what his Father newly be-

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fore him began, in summoning them to Parliaments.

This being an irrefragable truth, as I conceive, the next thing to be considered of is this; whether the Commons, when thus called and admitted by H. 3. and E. 1. into our Parliaments, had any share, right, or interest in the judicature of Parliaments then granted to them, either as severed from, or joyntly with the King and Lords? And if any share or right at all therein; at what time, and in what cases was it granted or indulged to them?

With submission to better judgements, I am clear of opinion, that the King and Lords, when they first called the Knights, Citizens, and Burgesles to Parliament, never admitted them to any share or copartnership with them in the antient, ordinary, Judicial power of Parl. in civil or criminal causes, brought before them by Writ, Impeachment, Petition, or Articles of complaint, as they were the supreme judicature and Court of Justice; but referved the judicial power and right of giving and pronouncing all Judgements in Parliament, in such cases and ways of proceeding, wholly to themselves, admitting them only to there with them in their consultative, Legiflative and Tax ampoing power, as the Common Council of the Realm, & thereby in cases of Atrainder by Act, Bill, or Ordinance (a part of the Legislative not ordinary judicial authority of Parliament) allowed them a voice and partnership with themselves, and a share in reverling.

verling such Artainders by Act, Bill, or Orginance by a nother Bill or Sentence; but in no cases else, except such alone, wherein the King or Lords should voluntarily, at their own pleasures, not of meer right, require their concurrence with them. The Arguments, realons, inducing me to this opinion and irretragably evincing it, are thele.

I. The Form of the Writs for electing, Knights, Co tizens, Burgefles of Parliament, with the recorns and Indemures annexed to them, which are only ad faciendum, & confentiendum his que & tunc ibidem de Communi Concile diffiregni contiger int ordinari; Which gives them no judicial power in civil or criminal causes there adjudged, as the Writs to the Lords doe give to them by thele clauses; Ibidem cum Pratais, Magnatibus, & Proceribus regui tollogu um habere & tractatum: vobifcum Ot, colloquiam babere & trattare : Perfonaliter inter fils Nobifcum ; ac cum Pralais, Magnatibus & Proceribus Super di-Etis negotiis tractauri , beftramque confilium impente ti : and utage, cultom time out of mind.

2. Becaule when first summoned to our Parliaments, they were never called nor admitted thereunto as Members of the Lords house, or as persons equal to them in

(9) My Levellers level-power, not admitted to he in the fame Chamber, as led, and Pre-Peers, with them, but as Members of an inferiour degree, face to an Fx- fitting in a (q) distinct Chamber from them, by themselves act abridgeat first, as they have done ever fince, which () I have ment of the elfewhere proved, against Sir Edward Cooks, and others Records of miltakes , 25 Modus tenendi Parliamentum it felf te the Tower. (r) See my folves, if it be of any credit.

Catalogue of 3 ly Becanfe after their call 100 our Parliaments, in 40 the Speakers in my 2 Table H. 3. they had scarce the Name, por Form of an House of to an Exact Commons, or Lower House, nor any S caker of their abridgement, Houe, that we find in History or Record, till 51 E.3. &c. p. 151. Therefore doubtleffe they had no judicial power or ju-

155.

4 4y. When they becam a House, and had a Speaker, they could neither chuse their Speaker in any Parliament withto se/ ONY Car ren

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without a command to and license first granted them by the King, Lord Chancellor, or the person implyed by the King to flew the causes of summoning the Parliament; (1) who gave them a command to elett their Speaker, (1) See my and then to present him to the King and Lords for their ap. Table of probation of him at the time prescribed them; who had then Speakers, and power to allow or disallow their Speaker, and to order them Title Parlito elect another then or afterwards , incase of unfitness, fick er, Commons, ness, impri onment, or any other just ground or excuse, as to the Exact our Parl. Rolls and others attest. If then the Commons abidgement can neither elect their own Speakers, nor approve nor of the Reremove them, but by the Kings and Lords approbation; Tower, and who may discharge them upon just grounds, and order p. 155,174, their to elect others in their places; and that against their 189, 390,534, wills, as in the case of Thorpe hereafter cited : Then \$35,618, 619, certainly the judicature in all other cases; as well as this 640,649,661, of their very Speakers, and Members too, relided still in the King and Lords, and was not communicated to the Commons Houle,

5ly. The Commons House inability to administer an (1) 1 R. 2.
Oath to any person in any case (2) which the Lords alone 31,42. 7 R. 2.
have power to doe in Barliament.

6ly. Their Petitions, (*) Articles of complaint, and R 2. n. 53. Impeachments in all Perliaments, delivered and fent up (u) 21 E.]2. to the Lords against Delinquents in Criminal causes, as n. 16. 0 41. well of Commons as Peers, Clergy men as secular persons; 10 R. 2. n. 6. and their praying the Lords to judge and give sentence a 12 18. 21 R.2. gainst them.

7/ly. Their profecuting and giving in evidence against forx, n. 1, 2. all forts of Deliquenrs at the Lords Bar, as accusers. 28 H. 6. p. 14.

8ly. Their standing always in such cases; and that bare of 33. headed in the Lords House, as Prosecutors, Informers, (x) 8 R. 22. Grand-Jurymen, whiles the Lords alone sit, and that covered, and only give, pronounce the sudgement, and that in the Comons absence for the most part, not presence.

9ly. Their having (7) no voice or share at all in the hearing, examining, debating, reversing erronious. Judges 1. stir. p. 21, ments in other Courts upon Writs of Error brought in 22, 23.

Parliament, but the Lords alone.

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only in the House of Peers to authorize and affift them in their judgements are all infallible argumen: s and clear irrefragable demonstrations, that the Judicatory, or judicial power of Parliaments was never communicated to the Commons House, upon their first admittance into Pardiament, nor fince, but remained intirely, fully in the King and Lords alone, as it did before. That this is fo in truth, I have the express acknowledgement and confession of the whole House of Commons themselves long fince, in the Parliament of 1 H. 4. rot. Parl. n. 79. remaining on record to all Potterity, with the Kings and Lords concurrent resolution, both from the time of the Commons first admission, and for all succeeding ages. Commons in this Parliament, November 3. made their Protestation in the same manner they had done in the beginning of the Parliament; and more over shewed to the King (z) Co. me les Toggement; on Parlement apperteignent foulement au Rop et Seignieur, et nient as Communes, et. That the Judgements of Parsament appertained only to the King, and to the Lozds, and not unto the Commons. And thereupon they prayed the King out of his special grace. to thew unto them the fato Judgements, and the cause of them; that fo no Record might be made in Parliamin: againft the faid Commons, which are or (hall be parties to any judgement given or kereafter to be given in Parliament, withini that privity. Whereunto the Archbishop of Canterbury gave them this answer by the Kings commandment; That the Commons themselves are Petitioners and demanders, Ot que le Roy et les seignfours de tout temps ont eues et averont de boott les juggement in Parliament en manere come mesmes les Communes font montres, and that the Bing and Lozds from all times have bad (for times patt) and thall have (for time to come) of right the Judgements in Parliament, in manner as the Commons themselves have thewed, Saving that in Staintes to be made, or in Grants and Subsidies, or in such things as are to be done for the common profit of the REALM; the KING will have especially their advice and assent-

(z) See an Exact abridgment of the Records in the Tower, P-392. buc

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By this memorable Record in Parliament it is apparent by the Commons own confession, First, That the Judgments in Parliament even in cases of Commoners themselves, and Members of the Commons House as well as Peers, appertain only to the Bing and to the Logos, in the Affirmative. condiy, That they appertain not to the Commons, in the Negative. Thirdly, A Contellion both of the Commons, King and Lords, That they have from all times in all as ges before that Parliament appertained to the King and Lords, and that of right, not by usurpation or connivence. To irthly, An expreis order and resolution, that the King and Lord thall alwayes keep and hold this their Right of Judicature in all times to come, without admitting the Commons to share therein upon this their Petition, as not fit to be granted them. Fifthly, That if the Commons should be admitted at any time to be parties or privies to the Judgements in Parliaments, as they then defired; it would be meerly out of the litings special Grace. Sixthly, That the special reasons, ends of the Kings sum. moning the Commons to Parliaments at the first and ever fince, were only thefeefpecially, I to have their advice in Statutes to be made, 2. in Grants, or Sabfidies, 2. in such things as are to be done for the common profit of the Realm; not to give them the least share, right or interest in the Judicature or Judgements of Parliament, as it is the fupremest Court of Justice.

The Judicial Power and the Judgements in Parliament being never transferred in part or whole by the King and Lords to the Commons House, but intirely reserved to themselves, as before their admission in o our Parliaments, as I have proved, it follows inevitably from thence; 1. That all Judgements given by the Commons House alone, or by any of their Committees of Sequestrations, Examinations, plundered Ministers, &c. without the Lords, are meerly void and null in Law, being Coram non judice; and may be justly questioned and vacated by the Lords upon appeal or complaint, as Nullities. 2. That the House of Commons have no more right or power to

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judge or vote down the Lords Honfe, or question or null their Judgements upon appeals to the Commons from them (as Lilburn and Overton pretend they may) than the Grand or Petty Jury have to Vote down the Judges and Juffices of Affize or Sellions from the Bench, or to reverse or repeal their Judgements and Orders; Or the Common Council of London to vote down the Lord Mayor and Aldermen, and reverse their Orders and Judgements in their Court upon appeals unto them: They being in nature of Grand Jury men, and the General Inquisiors of the Realm, to inquire of, present, impeach, transmit delinquents of all forts in Parfiament to the Lords House, their only Judges, Cooks 4 Instit. p. 24. - 3ly, That the King and House of Lords are now of right, and still ought to be the only true and proper Judges of all Parliamen ary Caules, and Controversies, Civil, Ecclesiastical or Criminal, whether they concern Peers, Clergymen or Commoners, as they were originally before any Knights, Citizens or Burgestes summoned to them.

To clear this from all Scruples and avoid mistakes, I must inform you, that there is a twofold way of proceeding and judging in Parliaments. The 1. extraordinary and extrajudicial, by way of Bill, Act, or Ordinance, by the Legislative power alone; such Bills, Acts, Ordinances, ratifying only the precedent judgements of the Lords passed against Malesactors, being not any proper actual

(a) Henry de Judgemeuts in their own name. This is evident by one Knyghton, de of the first cases wherin the Commons after their admissi-Event, Angl. on into our Parliaments, were made parties to a Judge. 1. 3. c. 4. 5. Polychron, 1.7. ment by way of Bill. In (4) the Parliament of 15 E. 2. c. 42: Exili- there were fundry Articles of HighTreason in accroaching um Hugonis, royal Power in divers cases &c. as likewise of misdemeanour and Breach of the Great Charter, exhibited against in Totles Magna Char- the 2. Hugh Spencers (both privy Counsellors of the realm) ta, f. 50. &c. which upon examination were found true (b) BY THE EARLS, BARONS & OTHER PEERS OF THE 2. dorf. 32. (b) Totle, f. LAND: " Parquoy NOUS PIERS DE LATERRE " (OUNTS & BARONS en la presence nostre SEIG-53254. " NOUR ull

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. NOUR LE ROY, AGARD, que Sir Hugh le Dec. Shenfer le Fitz, & Sir Hugh le Despenser le piere soient "disheritza touts jours, come disheritours de la corone " & enemies du roy & de son people, & que ilz soient de " tout exiles hors du royalme Dangliterre, sans retourner "in nul temps, fi ceo pe soit de assent nostre Seignor le "Roy, & de lassent DES PRELATS, COUNTS ET "BARONS, et ceo en parlement duement somons. Et cles donons port a Dover, & nul parte aillours, a voyder a & a passer hors du royalm Dangliterre, enter cy la feast de fain & John le Bapust prochein avenir, celt jour ac-" compre. Et si les it Sir Hugh & Sir Hugh demurgent " en le royalme Dangliterre outtre le dit jour, que done "lour est de voyder & de passer; come desuis est dist, ou "que apres le dit jour recournet, adonques foit fait de ceux, come de enemies de roy & de roialme." This judgement being given against them in Parliament only by the Peers, Earls and Barons in the presence of the King, as the Close of the Act for their banishment and (c) Clause Roll tf that year recite; thereupon there was an Act drawn(c) 15 E. 2. up (wherein all the Articles and the judgement given against them are recited) for confirmation of this Judgement, wherein the Prelates and Commons were made parties, though not to the judgement it felt, beginning thus. Al honeur de dein, Oc. luy monstrent Prelates, Counts, & Birons, et les autres Pieres de laterre, & COMMON de Royalm, contre Sir Hugh, &c. To which Act the King much against his will, to prevent a warr, consented. The History of the Lords proceedings against these Spencers is * Historix thus related by * Walfingham : There falling out a diffe- Anglix, p.91, rence between Hugh Spencer the younger and Earl of He . 92. Ypodig. reford about lands which Spencer purchaied of William de Neuftriz, p. Brews, which the Earl defired to buy and had first contracted for, but Spencer by his power at Court bought. from him; the Earl thereupon being much incented, complained of this injury to Thomas Earl of Lancaster; qui " allicientes cateros pene cunctos Comites & Barones in "partem luam, conjurationem lecerunt maximam ad vi-

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" vendum & moriendum pro justicia, & tegni proditores " pro viribus destruendis, & præcipue utrunque Hugonem "de Spencer, patrem scilicet at que filium, quos odio in-" exorabili perstringebant, eo maxime quia regem duce. "bant pro sua voluntatis arbitrio, in tantum quod nec Co. " mes, nec Baro nec Epilcopus quicquam valuit expedire " in Curia fine horum confilio vel favore. Omnium ergo "livore persequebantur, qui omnibus pene dominaban. " tur, & quo plus crevit corum gloris, & co amplius con-" tra illos crevit invidia, quæ semper accrescit abundantia "aliorum. Igitur Barones duce Thoma de Lancastria " aprid Shirborn in Elmedon convenerunt, fæderati prout " dicitur & juramentis affricti, ad prosequendum proposi-" tum usque ad corporis & animæ divilionem. " men pene cun ti præ er Thomam de Lancastria & Hum. " fri jum Comitem de Herefordia & paucos alios ante fi-" nem negotii retrorium abierunt, & præ timore mortis fe-" se Regi dediderunt sed hac inferius plenius videbuntur. "Cumque Barones ut præfertur a oud Shirburnam convea nillent, quoloam articulos proferiptionem diagram Hugonis & Hugonis compoluerunt, led tamen bias in " ris et equitatis in hac parte penitus omiserunt, suozum " pro tempore exequentes impetus animorum. Nam "Illorum bona qui illis vel amicicia vel affinitate juncti " fuerant, furibunde invadebant, capientes callra per vio-" lentiam, vastantes prædia per malitiam, & perimentes " famulos repersos in cultodiis eorundem, dolences ob hoc " rantummodo, quod eorum personas capere quos oderunt " minime potuerunt: prædica furia de die in diem vires " somente, Barones vexillis explicatis ad sanctum Alba-" num veniunt, per viam deripientes ubique victuali, & " pauperes terræ gravantes. In hac comitiva fuerant qui-"dam, qui propter inveteratum odium monafterium fan-"Ai Albani distique lo: i Monachos, se gravaturos devo-Sed tamen disponente Deo qui neminem " temptari permittit supra vires, horum magister & autor " tantæ malitiæ in villa de Alysbury priulquam ad san-"Aum Albanu attingeret, morbo percusus irremediabili, propriis

" propriis leiplum delcerpit manibus, & pott duos dies " miserabiliter expiravit. Cæteri tam formidabili tre-"mefacti vindicta, casum pro miraculo reputantes, ab " executione voti illiciti timore magisquam amore desti-"terunt. Magnates vero apud lanctum Albanum cum "fuis armatis exercitibus per triduum perhen inan-"tes miserunt solennes ad Regem nuncios Londoniis commorantem, Londonieniem, Sarisburieniem, " Eliensem, Heretordensem & Cicistrensem Prasules "qui tune apud fanctum Albanum convenerant pro pace "reformanda; mandantes, ut dominus rex non folum fu-" am vacuaret curiam, sed regnum suum de regni Proditoribus Hugone & Hugone le Spencer, per communitatem a terræ in multis condemnatis articulis, exiliumq; meri-" tum subire permitteret si diligeret regni pacem. Petie-"run", Barones insuper, ut rex ipsis & omnibus qui in eo-"rum comitiva arma moverant, literas patentes indem-"nitatis concederet, & ne pro transgrellionibus transactis " vel præfentibus a rege feu quovis alio futuris tem, oribus "punirerur. Ad hac dominus rex respondit, quod Hugo "le Spencer pater in suo negotio mare transierar, & Hugo " junior in miri ad custodiendum quinque Portus. prout "ex officio tenebarur, qui de jure bel consuetudine eru-"lare non debent ante responsa data per eosdem. Ad -"cir prætere", quod eozum petitio juris & rationis funda-"mento carebat, eo maxime quod disti Hugo senior & "Hugo junior parati lemper fuerant omnibus de se con-"querentibus in forma juris respondere, & si probare polfent eos in aliquo statuta terra læsisse, parari semper sue-"rant legibus regni parere. Poliremo cum furamento " addicit, quod notuerit facramentum violare ad quod as "Aridus werat in Coronatione fua, concedendo literas "pacis et indulgentiæ tam notozie delinquentibus in fuæ "personæ contemptum, et totius regni perturbationem, " et majeftatis regiz lationem. Hiis auditis, Proceres acti . in turiam, confettim ad arma (rolliunt, & milites quidam fuper armatura cotuças induerunt vocatas quarteloys, "Armigeri vero indumenta bendas habnerun, quibus indumentis:

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dumentis expott induti, tracti flunt & suspenti plurimi de procerum Comitiva. Cum sastu igitur & pompa nimia Barones Londonias adierunt, hospitatique in sub-urbia civitatis, manebant pacifice donec licentiam ingredi civitatem obtinuissent: obtento a rege civitatis ingressu, Magnates sicut prius in petitione sua fortiter perstiterunt. Tandem interveniente regina & præsatis episcopis laudabiliter mediantibus, rex inductus est propter werræ periculum evitandum, ut condescende ret votis & petitionibus Procerum prædictorum. E. dictoque super hiis per comitem Heresordiæ in aula Westmonasterii publicato, Hugo senior in exilium actus est. Sed Hugo junior in diversis locis latitans, in Anglia & in mari permansit.

The Clause Roll of 14 E. 2. m. 17. Schedula records the

proceedings with this addition: that King Edward the 2. having summoned the Lords to com: to a Parliament with the rest of the Council at Glocester, Humfry de Boun, Roger de Mortimer, and their consederates, refused to come upon the Summons, for fear of Hugh Spencer, who was made Chamberlain in pleno Parliamento 12 E. 2. at York, desiring that he might be committed and kept in safe custody till the Parliament; for they were unwilling to come to him, fo long as he was with the King! The King faid; he much wondred at this their carriage in regard Spencer was never questioned in any other Parliament sincehe was made Chamberlain, for any mildemeanour : & ignerare non debetis wee petestis, qued mandata nostra emnibus & si.gulis ad Nos ad bujusmodi mandata nostra convenientibus, protectio & defen fio funt & debent, fecundum legem et confuetudinem Regni nostri. As for removing Speneer from him, which they defired; he faid, is were unjust, and of ill examp'e, aliis Ministris nostris si ipsum amoveremus a Nobis

totaliter, fine caufa. Prafatum vero Hugonem five quemvis

alum Custodia sine causa committere non possumus nec bebenus, cum hoc esset contra tenozem Pagna Charta be libertatibus Anglia, et contra Communem Legem

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and the Lords in Parliament. I dem enim Hugo se protulu plane ac cublice coram Nobis ad respondendum in Parliamento nostro of alibi prout debuit querelis nostri of su gatorum ac ipso conquerecium volentium, of ad standum inde retto, oc. And thereupon he commands them to come and
treat cum cateria of Concilio, at Oxford; whereas it appears
by the Dorse of this Roll, he bad formerly summoned them
and the rist of the Council to Glocester, whether these Earls
refused to come. Claus. 15 E. 2. dorso 32. The whole
proceedings against the Spencers in Parliamen, are at large
recorded but cancelled by order of the Parliament at
Tork.) They were sent to every Court to be involled: and
the writ redices, that their judgement was per pares in
parsentia Regis.

ment at York, on the 3. of September: where this judge E. 2. m. 23, ment at York on the 3. of September: where this judge E. 2. m. 23, ment against the Spencers was questioned as erronious; and 24,8 dorf.13. being referred to the consideration of the Provincial 32. Claus. 17 E. 2. m. 30. Conneil of Canterbury, they conceived it to be erronice 21 R. 2. rot.

"fattum, because the Spiritual Lords never affented to it. Parl. m. 55. to in neither could they doe it, because it was Indicium san- 67. See Hoguinis, for if they submitted not to the exile they were linshed, Fa-

"to be proceeded against as Exemies to the King and Realm, chronicon.

After which "the King and some of the Lords had the

"ous. The Earls of Richmond, Pembroke and Arundel faid,
"They gave their voyces for fear of the other Noble mens
"power: and the Judges faid; Confideratio pradicta fuit
"contra Legem & confuctudinom regni. The King writes
"down all this, and then fends to some of the Bishops
"that were absent from the Council to know their minds
4 Januarii: who concurring in judgement with the rest;
thereupon the Process, Judgement and Ast against the
Spencers, was "nulled and made void, before the King,
"Lords and Commons (who were consenting to it before.)

"I. Because they were not called to it to make their de-"sence, 2ly. Because the Lords Spiritual (who were "Peers,) assented not to it. 3ly, Because against MAG-

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" NA CHARTA, & the tranchi es of England; Aultus liver " bomo nilagetur, &cc. 4'y. Because the Faults were not "fufficiently proved. 51. Because the Lords in the "Kingsabsence, of their proper authority, usurping to "themselves royal power, had given the indeement of his royal affent, with the affent of the san I Com. " mons, without his privity, and against his will. The " judgement and process of this repeal and nulling their " fentence, were fent by Writ into every County to pro-" claim, and to null and cancel the first judgement. A "little before which Parliament Thomas Earl of Lancafer, and fundry other Lords, Knights, and Gentlemen for adhering to him, and levying war against the king, were arraigned, impeached before the Lords, and commanded to be hanged, drawn, quartered and beheaded Co. mitum et Baronum Confilto, as (f) Walfingham re. podigm. Neu-lates, without the Commons peculiar atlent, and accor-

(f) Hift. Angl. Itiik, P. 120.

dingly executed. Anno 1326. Hugh Spencer the younger notwi hilanding the repeal of his exile) being taken by the Kings forces was brought to Hereford, and there arraigned pub. liquely before William Truffel, a Judge: His indicement is at large recorded in the Chronicle of Leicefter, and in Henry de Knygheon de Eventibus Anglie, 1.3. c. 15. col. 2547. &c. beginning thus ; Hugo de Difencere En Parlement nostre Seignour le Roy que ore est, tenue a Westminstre lan quinzisme, per examinent dez Pralates, Contes, Barones, et tote la commune de Realm fuift notoriement trove, que voltre pie c, O' vous Hugh fuilez agardez TRATTOURS O' enmys del Realm; pur quel par affent & commandment nofire Seigniour le Roy, vostre Piere, & vous Hugh fuistez exsiles del Realm, fanz james revenir, li ceo ne faist par lassent O common andment noftre Scignions le Roy, & ceo en playne Parlement duement al ceo (ummounz. And for his recurning into Englandagain? this Act, and his mani-"Walfingham fold murders , oppressions and mildemeanors fince ,

H.ft. Angl, p. there recited at large, he was condemned to be banged, drawn, bowelled quartered and beheaded, which was exe-:06.

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Poll, and let upon London bridge. The Repeal of the Spencers exile was not long after repealed, and the Act for their exile re-confirmed in the Parliament of I E. 3. ch. I, 2. 15 the Statutes at large, which recites; That they were exiled, dif inherited and banished out of the Realm by the Commons assent, and award of the Deers and Commons of the Realm, and by the afleut of King Edward, as Traytors and Enemies of the King and of his Realm: And that he by the Common Counfel of the Prelates, Early, Barons, and other Great men, and of the Commonalty of the Realm, in his Parliament holder at Weitminiter, dia ordain and establish, That the repeal of the (and Exile, which was made by Durefs and force, (hould be admulled fer ever more; and the same exile made by the award of THE PEERS AND COMMONS BY THE KINGS ASSENT, as aforefaid, shall stand in its strength in all points, after the tenour of every Article therein contained. But this Act of repeal by the like power and alfent was repealed as erronious, and the heir of the Spencers restored to blood and Lands by the Parliament of 21 R. 2. Rot. Parl. w. 35. to 57. And that whole Parliament again repealed and nulled by I H. 4. c. 3. Cooks & Inftir. p. 25. This was the issue of this very first Accainder, wherein the Commons concurred with the Lords, being carried by force and power on all hands in those turbulent times.

In the Parliament of II R. 2. ch. I, 2, 3, 4, 5, 6, 7. in the Statutes at large. Alexander Archbishop of York, Robert de Vere Duke of Ireland, Michael de la Pale Earl of Suffolk, Robert Tresplien, chief Juttice, R. Belknap, with sundry other Judges, Lawyers, Knights, Gentlemen, Clergymen, and other Commons and Prelates were impeached by the Duke of Glocester, and other Lords Appellants of High Treason, in 36 Articles, & thereupon attained, condemned, judgement of death, banishment, forseiture of their lands and estates given against them in Parliament by the Lords, without the Commons. After which the

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Lords exhibited a Petition to the King for the confirmation of the faid Attainders and forfeiture. Whereupon the King confidering the mat er of the faid Petition to be true, at the request of the fato Commons, of the affent of the Paelates. Dukes, Carls, Barons, and all others of this prefent l'ar. liament, granteathe request of the Said CONI MONS in all points, after the form of the (aid Petition; And moreover of the affent aforefaid, paffed fundry Acts touching their Attasnders , Judgements, Exiles , and for feitures , which all may peruse at leisure in the Statutes at large. In the Parliament of 21 R.2. upon the Petition of the Commons, by the like affent, c. 2. to 12. in the Statutes at large; these Attainders, Judgemens, forfeitures, and the whole Parliament of II R.2. were repealed, as erronious, and nulled. Yet after by the Parliam. of 1 H.4.c.3 the Parl of 21 R.2. is nulled, and that of II R, 2. revived and confirmed, with all the attainders, and Judgements therein given. In the Parliament of 9 H. 6. c. 8. Owen Glendor, formerly endited and attainted of high Treason for his grand infurrections and rebellions, by the affent of the Lords spiritual and remporal, and of the King, at the special request of the Commons, was by special Act, declared a Traytor; and all manner of Indictments, Inquisitions, Processes, Records, Judgements, Ordinances, Statutes made against him, authorized, established for Law, by affent of the Lords and Commons in Parliament. In the Parliament of 29 H. 6. c. 1. The King by the advice of the Lords spiritual & temporal, and at the request of his Commons, by a special Act, attainted John Cade of several High Treasons, for traytorously imanaging the Kings death, the destruction and subversion of this Realm, in gathering and levying great numbers of the Kings people, and them exciting to make infurrection against the King, his regalty, crown, and dignity, and to make and levy war falfly and trayteroufly against the King: for which they conficated all his Lands, Tenements, rents and possessions to the king, corrupt and disable his blood for ever, and enact him to be called a falle Traytor within within the Realm for ever. And in 31 H. o. c. I. with the advise and assent of the Lords, and at the request of the Commons, it is ordained, established, that the faid John Cade shall be reputed, had, named, and declared a false Traytor to the king; and all indictments and proceedings had and made under the power of his Tyranny, were clearly repealed and admilled for ever, and to be of no effect, but void in Law, and put in oblivion, and deffroyed for ever, as purposed against God and Conscience, and the Kings royal efface and preheminence, and also dishonourable and unreasonable. In the Parliament held Acno 38 H. 6. rot. Parl. n. 5. to 26. Richard Duke of Tork with fundry other Lords and Commons were attainted of High Treason by Bill for conspiring and levying . AnAbridgewar against the King. And in the Patliament of " I E. 4. ment of the rot. Parl. n. 12, 17. to 37 King Henry the 4 H. the 6 Records, p. Queen Alargaret, Edward Prince of Wales, Henry Duke 670,671,672. of Somerfer, the Earl of Devonshire, with fundry other 699,702, 677, 689,691, Knights, Esquires, and Gentlemen, Priests and Yeomen 703, 707. were arrainted of High Treason by Bills, for levying war against king Edward the 4. In the Parliament of 4 E. 4. rot. Parl. n. 2. to 39. the Duke of Somerfet, Henry Beauford, Sir Ralph Piercie, with fundry other Knights, Elquires and Gentlemen were attainted of High Treason by Bill for levying war against the king; most of which attainders in the Parliaments of 12 E.4. rot. Parl. n. 15. (g) Cooks 2 to 36. 13 E. 4. n. 45. 14 E. 4. n 45. 27, 28, 29, 31, 32. Infticp.39, 17 E. 4. n. 19, 20, 21, 22. E. 4. n. 23. Were repealed by 40, 41. Bills, and the parties, or their heirs restored to blood and Lands. In the Parliaments of 14 E. 4. rot. Parl. n. 34, 35, 36, 37. Sir Richard and Sir Robert Wells , John Vere, Earl of Oxford, Sir Thomas Vere, with fundry more Knights and Gentlemen were attainted by Bill of High Treason, for levying war against the king, and some of the Attainders repealed by Bill afterwards. In the Parliament of 25 H. 8. c. 12. Elizabeth Barkin, Richard Master, Edward Barkin and fundry others were attainted and condemned of High Treason, & John Fisher Bishop of Rochester, Thomas Gold.

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Gold and others of milpriflion of High Treaton, by Act of Patliament. In the Parliament of 28 H. 8. c. 7. Queen Anne, George Lord Rockford, Sir Henry Norris, Sir Fran. cis Wefton, William Breer ton Elquire, and Mark Sutton were convicted and attainted of High Treaton, and their lands forfeited by Bill. In the Parliament of 32 H. 8. Thomas Lord Cornwell was convicted and attainted of High Treaton by Bill (against Law, and the great Charter) without ever being called to answer, or any legal hearing, for the Treasons therein expressed, according to his own intentions to have thus proceeded against others without legal tryal. In the Parliament of 33 H. 8. c. 21. Queen Katherine, & Jane, Lady Rochford were convicted and attainted of High Treason by Bill, to which Act the king was enabled to give his royal affent, by Letters Patents, figned by him under his hand with his great Seal, notified and published in the HIGHER HOUSE, to the Lords Spiritual and Temporal, and the Commons there assembled, without comming to the House in person to give his royal asient thereto. In the Parliament of 2 & 3. Ed. 6. ch. 17. Sir william Sharington Knight being indicted and attainted of High Treason, for forging and coyning of mony called Testons, his accainder was confirmed by Act of Parliament and his lands forfeited. And ch. 18, Sir Thomas Seymor Lord Seymor of Sudley, and high Admiral of England, for his trayterous aspiring to the Crown of this Realm, and to be King of the same, and for compassing and imagining by open Alt to deprive the King of his royal estate, and title of his Realms, and for compassing and imagining the death of his Noblemen, and most trayterously to take away and destroy all things which should have founded to the let or impediment of this his most trayterous and ambitious enterprise (as the Act recites;) and for other his misdemeanors, innumerable untruths, falshoods, deceiptfull practifes outrages against the King oppression, or manifest extortion upon the Subjects of the Realm, was adjudged and attainted of high Treason by Bill, and to sustain such pain of death, and other forfeitures, as in eases of High Treason have

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benujed being a Member jo unnatural: unkind, and corrupt, and jush a beyonus offender of his Majesty and his Laws, that he cannot nor may not conveniently be suffered to remain in the body of the Commonwealth, but to the extreme danger of the Kings Highness, being the head, and of all the good Niembers of the same, and of toe permitious and dangerous example, that such a person so bound to his Majesty by sundry great benefits, and so forgetfull of them, and so cruelly and urgently continuing in his false and treacherous intents and surposes against his Highness, and the whole estate of his

Realm, hould remain among us.

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In the Parliament of 1 Maria ch. 1. the Attainder of Oucen Katherine is reverted by Bill; and ch. 16. the Attainders of John Duke of Northumberland, Thomas Cranmer Archbishop of Canterbury, William Marquels of Northampton, John Earl of Warwick, Sir Ambrofe Dudley, with other Knights and Gentlemen, formerly convicted and attainted of Treason, according to the Law of the Realm, for their detellable and abominable Treatons, in proclaiming and fetting up Queen Jane, to the peril and great danger of the person of Queen Mary, and to the utter lofs, disheriton, and dettruction of the Realm of England, if God in his infinite goodness had not in due time rerealed their trayterous intents (as the Act recites) at the Perition and with the allent of the Lords Spiritual and Temporal, and Commons in Parliament, were confirmed and ratified by a special Act. In the Parliament of 29 Eliz. c. 1. the Attainders of Thomas Lord Paget, Sir Francis Englefield, and fundry other Knights and Gentlemen, who were lawfully indicted, convicted, and attainted of many unnatural, deteltable and abominable Treasons, to the fearfull peril and danger of the destruction of the Queens Majesties person, and of the Realm, were confirmed by a special Act, and ch. 3. there is another Ad, to avoid fraudulent affurances, made in certain cases by Traytors. In the Parliament of 3 Jacobi, ch. 2. Sir Everard Digby , Robert Winter , Guy Fawkes , Robert Catesby, and all the rest of the Gunpowder Traytors who under-

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*See Straffords tiyal. *See my Canterburies Doom,

uudertook the execution of the most barbarous, execras ble and abomiuable Treason that could ever enter into the hearts of most wicked men, by blowing up the Lords House of Parliament, with the King, Queen, Prince, Lords Spiritual and Temporal, Judges, Knights, Citizens, and Burgeffes of Parliament, therein affembled; were attainted of High Treason, and their former attainders aud convictions confirmed by a special Act: And in this very last Parllament, the * Earl of Strafford Lord Deputy of Ireland, and " William Land Archbilhop of Canterbury, after judgement of high Treason, upon their several impeachments and trials given against them by the Lords in their House, were likewise attainted of Treason, and their judgements ratified by a special Bill and Ordis nance, to which the Commons affented, as well as the Lords; their affents to Attainders, by way of Act or Bill being so necessary, that if the King in Parliament Wills, that fuch a man shall be attainted of Treason and lose his lands, and the Lords affent, and nothing is spoken of the Commons in the Bill, this is no Act nor, good Attainder in Law, and the petion shall be restored by the opinion of all the Judges, 4 H. 7. f. 18. Broke Parliam. 42. Fitz, 3. 7 H. 7. 14. II H. 7. 27. Brike Parliam. 107. Plowden 79. 32 H. 6, 18. As the Commons in our Englifb Parliaments have affented to all these and some other Bills, and Acts of Attainder cited in Sir Edward Cooks 4 Institutes, ch. 1, 2, and Mr. St. Johns Argument at Law concerning the Bill of Attainder of High Treason of Thom is Earl of Strafford, printed by Order of the Commons Honse 1641: 30 I find that the Commons in Ireland have done the like in the Parliaments held in Ireland, as the Printed Statutes of Ireland 28 H. S. c. 1. for the Attainder of the Earl of Kildare, and others of High Treas ion. II Eliz, th I. for the Attainder of Shan O Negle and others of High Treason, of 13 Eliz ch. 6. & 7. for the Attainders of Fi zgerald and others of High Treason, Of 27 Eliz ch. 1. for the Attainders of lames Enfrace and others of High Treason, of 28 Eliz, ch. 8. & 9. for the Attainders of the Earl of Desmond, John Brown and others, and of II Jacobi ch. 4. for the Attainders of the Earl of Tyrone and others of High Treason, for their feveral rebellions, infurrections, wars, against their Soveraigns, and other Treasons mentioned in these respective

Acts, abundantly evidence.

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But yet the Commons affents to all thefe Bills of Attainders in cases of high Treason, did not institute them Judges of these persons, nor give them any share in the udicial right and power of Parliaments, 1. Because molt of these persons thus attainted by Bill, were Queens, Dukes, Earls, Lords, Barons, and Peers of the Realm, who were triable & to be judged only by their Peers, & none elfe, by the Common Law of England , Magna Charta, c. 29. and fundry other Acts, not by the Commons, who are not their Peers.

2 y. Because most of these parties thus attainted by those Bills, were first attainted, tried, judged, condemned in Parliament by the Lords alone, as their proper ludges, upon the complaints or impeachments of the Lords Appellants, or of the Commons themselves, or else before some other Judges, upon indicaments and legal tryals; and those Acts did only confirm and ratifie

their precedent attainders recited in them.

3ly. Because in many of these Acts the Commons did only petition, that their Attainders might be ratified by Bill, and the King and Lords affents thereto, which was

done at their request as Perioners, not Judges.

4ly. Because their Judgements and Attainders, passed formerly by the Lords and Judges, were good in Law, though thus ratified afterwards by Bill, for the greater terror, certainty, and fatisfaction; and these Bills did pals no new Judgements and Attainders upon the parties, but only ratifie the old; and in cases where there was no precedent Attainder, they attaint them only by vertue of their Legislative power, wi hout any indictment, tryal, or hearing of the parties themselves, as Judges of them (some of them being dead when attainted) taking all the Dd charges charges in the Bills pro confess, and notoriously true, and proved such by some other precedent legal convictions and evidence.

2ly, There is a formal proper Judgement given in our Parliaments both in criminal and civil causes, upon complaints, Articles, Petitions, Impeachments, Inditements, Informations, Writs, Appeals, Reports, References, and that either against or concerning Peers themselves, or against or concerning Commoners, and other Laicks or Clergymen. And in all such cases, proceedings, the King and Lords alone have a proper judiciary power or right of Judicature without the Commons, vested in and executed by them, which I shall abundantly evidence and make good by sundry memorable Presidents out of our Histories and Records in all ages, not vulgarly known, and for the most part never yet remembred by any who have written of our Parliaments, and the proceedings in them, whose Treatises are very slight, unsatisfactory, and in many

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I shall begin first with presidents concerning Ecclesia. stical & Temporal Lords alone, proceeded against impeached, judged, censured in our Parliaments for fundry criminal causes, Offences, Treasons, wherin the House of Commons can challenge no share or voice in the Judicature, (especially in the case of Temporal Lords, who are such in their own right, and fit in Parliament ratione Nobilitatis) but the Lords alone, and that by the express Letter and Resolution of the Great Charters of King John, and of King Henry 2. and Ed. 1.c. 14. 29. 15 E. 3.c. 2, 3, 4. and rot. Parl. n. 6. 8. 11 R. 2. rot. Parl. n. 6, 7. 5 H. 4. rot. Parl. n. 12. 28 H. 6. ror. Parl. n. 51, 52, 53. 20 H. 6.c. 9. 26 H. 8.c. 13. 28 H. 8. c. 7. 18. 31 H. 8.c. 12. 32 H. 8. c. 4. 33 H. 8. c. 12, 20, 23. 35 H. 8. c. 2. 1 Ed. 6. cap. 12. 1 Mar. c. 6. 1 & 2 Phil. & Mar. c. 3. 4 & 5 Phil. & Mar.c. 4. 1 Eliz. c. 1. 5. 5 Eliz. c. 11. 13 Eliz. c. 1, 14 Eliz. c. 1, 2, 3. 18 El. c. 1. 23 El. c. 1, 2. 27 El. c. 2. 3 E. 3. 19. Fit: Corone 16 . 1 H.4. 1. 10 E.4.6. Brooke Trial 142. Stamforda 1. 3.c. 1. f. 152. 33 H. 8. Brooks Trial

Trial 142. 34 H. 8. Bro: Corone 172. 13 H. 8. 11. Br. Treasons 29. 38 H. 8. Br. Treasons 2. 33. Dyer 99.107. 208. 360. Cook 6 Rep. f. 52. 9 Rep. f. 30. 87. and Cooks 2 Instit. f. 28, 29, 48, 49, 50. and his 3 Instit. c. 1. & 2. p. 27, 28, 29. 30, 31. All which declare, enact, resolve, That the Peers of this Realm shall not be tried or proceeded against, but only by the lawfull judgement, and verdict of their Peers. The Lords and B. rons of Parliaments trial by Peers alone of their own rank, being soelf. ntial, that they cannot waive, nor put themselves upon the trial of the Country, by 12. ordinary Freeholders, as was resolved in the Lord Dacres case, Pa. 26 H. 8. Cooks 3 Institutes, f. 30. much less then can they waive their Peerage it self, and sit as Commoners in the Commons house, as I have formerly proved.

The first prefident I meet with in our Histories of this

nature, is in the reign of Cassibelan the British King, who having repulsed Julius Casar upon his first landing in this Island and forced him to return into France. (a Edistum (a) Galfridus secieut omnes Proceres Britannia convenirent; to the Monum; hist. Gity of Troynovant, now London: where Evelin, nephew I. 4. Porticus to Androgens Duke of Troynovant, slaying Heralgas nephew Verunnius, to Cassibelan, upon a sudden quarrel as they were playing Mat. Westm. together, Cassibelan thereupon commanded Evelin to be Flores Hist. p. brought before him, talent sententiam quam Droceres 66, 67. Fabitegns sudden substantial substanti

fese sum Curiam habere, & in illa diffiniri debere quicquid Gration, aliquis in homines suos clamaret; thereupon Cassibelan threatned to waste his Country with fire and sword, if he resuled to deliver up his Nephew to instice, to undergo the sentence quant Process bidatent: which he accordingly executed, for resuling to put his Nephew upon the Trial and Judgement of the Nobles for this murder.

The next prefident I find, is that of (b) Wilfrid Archbir (b) Will.

Malmsburie

fis de Gestis Pontis, Angl. 1, 3, p. 264, to 269. Chron. Johan. Bromton, col. 792. to 795. Mar. Westm. Anno 692. 711. Fox Acts and Mon. Vol. 1, p. 160, 161. Stubs and Godwin in Wilfrids life.

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Parl. 9. 26

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C. I. L. C. 2. Brooke

Brooks Trial shop of York, who for refusing to divide his Bishoprick into two Bishopricks more, and for endeavouring to perswade Queen Emburga, to become a Nun, and desert her husband Egfrid, King of Northumberland, was through that Queens malice and profecution in two several Parliamentary Councils Anno 678. & 692. twice deprived of his Archbishoprick and banished the Realm, by King Egfrid, Theodor Archbishop of Canterbury, and the rest of the Bishops and Bobles of the Realm assembled in these Councils; and at last restored to his Archbishoprick again, in another Council, An. 705. by King Ofred his will and confent.

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About the year of our Lord 924. (c) Elfred a Noble(c) Willelm, man, who opposed Æthelft ans title and election to the
Melmburien- Crown, though in vain, intended to seise upon him at Winde Gestis chetter, and put out his eyes; but his Treason being discovees g. Angl. 1. red, he was apprehended and sent to Rome to purge himself
c.6, p. 62. thereof by Oath: where he abjuring the set before the AlSpelmanni
Concil.p.407, tar of St. Peter in the presence of Pope J. hn the 10th. sell
408. Speed down suadenly to the ground as dead, and teing thereupon carrup. 396. ed away thence to the English S. hool, he there expired within 3
days effer. The Pope acquainting the King there with

dayes after. The Pope acquainting the King there with, and craving his advice, what to do with him, and whether he (hould have Christian burial? the Kino therenpon affemb. led a Council of the Robles of his Realm, at whose inreaty he granted him . hrittian burial; but for this his Treason, they confilcated all his Lands great and small to the King, who by their content granted them all to the Abbey of Malmsbury by his Charter: wherein he recites Elfreds Treaton, death, and the judgement given against him by the Nobles: adding Sciant Sapientes regionis nostra, non has prafatas terras me in uste rapuisse, rapinamque Deo dedicaffe. fed fic eas accept quemadmodum judicaberunt omnes Dptimates regnt Anglozum: et fic abjudicata eft mihi tota pollessio ejus in Pagnis et Podicis. we have a direct judgement given againit Elfred after his death, by all the Nobles of the Realm allembled in a Parliamentary Council, for Treason against the King, for which they adjudged, he should for feit all his Lands to the King: whose seisure of them by this legal judgement, was no rapine, but a just and legal perquisite, which he in gratitude dedicated unto God.

(d) Anno 985. as fome; or 985. as others relate, King (d) Mat. West. Ethelred banished Alfric Duke of Mercia out of the Sim Dunelm. Realm: the cause and manner thereof, not expressed by Florent. Wiour Historians, is thus recited in King Ethelreds Char et gorn. Hoveto the Abbot of Abingdon, in the Leiger book of Abing. den, Bronton. don, f. 91. that Alfric had forcibly ravished and taken a 992, 993. way, Willemetrant and Syrene from a wildow named Ead Maimsb, de feild, for which he was banished : after which being recal. Gestis Regum led, and made one of the King; Admirals against the l.a. c. 10. Danes, Anno 992. he played the Traytor and revolted to the Danes as our Hillorians record; for which Treason, & as that Charter recites; quia cum Ducatu suo contra Regem Ethelredum reus exstitit,omnes possessiones ejus Regis ditioni subalta sunt: and that by the Lords judgement given in a COUNCIL at CIRENCESTER : filed Spnobale Conctlium ad quod omnes Optimates mei fimul in unum convenerint, et eundem Alfricum Pajellatis reum, de bac patria profugum, expulerunt : by whole Judgement, as he leifed his Duk dom and Lands there adjudged to be forfeited for his Treason, it is likewise probable he caused the Eyes of Algarus, lon of this Traytor Alfric to be put out : An 0993. When this Council at Cirencester was held, as I conjecture.

In a great Parliamentary Council held at Oxford, (b) (b) Malmsb. Anno 1015. King Ethelred caused some Nobles of the Da. de Gest. Reg. nish race, whereof Sygeforth and Morear were chief, to lice.c.to. Fl. be suddenly and sectorly slain and put to death, as being Mat. Westm. noted and accused of Treason and Persidiousness towards the p. 395. Hove-King; who thereupon seised upon their Earldoms, Lands den, p. 433. and Goods.

King Cnute (c) Anno 1017. by his precepts affembled all dus Abbas de Geneal, Re-

gum Angl. col. 965, 966. Flor. Wigorniensis, p. 389, 390. Simeon Dunelmensis, col. 175, 176. Hoveden, p. 436. Hen. de Knyghron de Eventibus Angl. 1, 1. c.3. Polyehron, l. 6, c. 18. Hen. Huntindon, H.R. 1, 6, p. 363.

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the Bishops, Dukes, Princes and Nobles of the English Nation in a Great Parliamentary Council at London, where they all swore allegeance and homage to Cnute as their King, totally rejected, abjured Edmond Ironsides Sons and Brothers, (right heirs to the Crown;) against their former Oaths of Allegiance to them, and by wicked advice, adjudged Prince Edwin to be banished the Realm, and Edmond Ironsides Sons to be sent beyond the seas, to be slain by the Barbarians; for which, by divine retaliation, he chiefest of them within one year after, were slain or banished the Realm by King Cnute, whom they endeavoured to ingratiate and secure by this their

(d) Col. 937, unjust sentence. The (d) Chronicle of Bromton, (e, Caxton in 938.
(e) Part. 6. his Chronicle, and (f) Mr. S. Iden, record this memorable (f) Ticles of proceeding in an Appeal of Treaton against Earl Godwin in

Honor, part a Parliamentary Council held about the year 1043. Godmin 3, ch. 5. Scct. Earl of Kent being enforced to fly into Denmark to pre 6, p.634.

ferve his life, for the murder of Prince Alfred, Brother to King Edwardthe Confessor, hearing of Edwards piety and mercy, resolved to return into England, humbly to implore his mercy and grace, that he might regain his lands then conficated for it; having provided all things for his journy he put to Sea, rived in England, and posted to London, where the King then held a Pailiamentary Council wi h all bis Bobles. Comes Godwinus usque Londorias ubi Rer et omnes regnt Pagnates ad Parlamentum tunc fuerant, properavit, rogans ibi et petens amicos & con-Sanguinees suos, qui post Regem majores terra fuerunt,ut gratiam et amicitiam à Rege sibi perquirere studerent. Qui super hoc consilio inter eos deliberato, ipsum coram Rege pro grat a obtinenda secum duxerunt. Sed statim cum Rex eum intuitus effet . De proditione et morte Alfredi fratris sui, tplum appellabit in bac berba. Proditor Godwine. ego te appello de morte Alfredi fratris mei, quem proditionaliter occidisti. Cui Godwinus se excusando respondit. Domine mi Rex, fali a reverentia et gratia vestra, pace & dominatione, frarrem vestrum unnquam prodidi vel occidi : un de luper boc pono me in consideratione Curia bestra. Tunc d xit Rex, Karitlimi Domini, Comites et Barones terræ.

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terra : qui eftis homines mei liges modo hic congregati, & appelium meum responsumque Godmini auditic, Wolo. quod inter nos in illa appellatione redum fuofcium becernatis et bebitam juftitiam faciatis : Comitibus bero et Barontbus fuper boc ad in bicem tradantibus , quidam inter eos De fufto judicio faciendo deverfime do fentiebant : Alii enim aicebant; Quod nunquam per homagium, fervitium, seu fidelitatem Godwinus Regi exfiitit alligatus et ideo Proditor fuus non fuit; & quod ipfum etiam manibus fuis non occiderat. Alii vero dixerunt : Quod Comes, nec Baro, nec aliquis Regi subditus bellum contra Regem in appellatione sua de Lege potest vadiare, sed in toro ponere in misericordia sus, et emendas sibi offerre competences. Tune Leofricus, Conful Cettria pobus homo groad Deum & feculum, dixit : Comes Godwinus, post Regem& homo melioris parente a totius Anglia, et dedicere non potelt, quin per confilium fuum Alfredus frater Regis interemptus fuit; unde per me considero, quod ipsemet & filius suus, et nos omnes 12. Comites, qui amici et consanguinei sui sumu, coram Rege humiliter procedamus, onerati cum tanto auro et argento quantum inter brachia sua quilibet nostrum poterit bajulare, illud sibi pro fuo transgretin afferendo, et suppliciter deprecando, ut 12 le malevolentiam fuam, rancorem et iram Comiti con onet: et acce; tis homagio suo & fidelitate, terras suas fibi integre relti nat et retradat. Illi an em omnes sub ista forma the fauro fe onerantes, et ad Regem acced nies , feriem & modum considerationis corum sibi demonstrebant. Quorum considerationi Rex contrad cere nolens , quicquid subscaberant per omnia ratificabit : Concordia igitur fub ifto moao inter eos facta, Comes gratim reobtinuit integre terras fuas (f (f) See the By this notable prefident it is most apparent : That the 3. Part of my Peers and Barons in Parliament, were then the fole and Seasonable only Judges, and gave judgement in it: That Peers in the Legal and Confessor reign and before, were only to be tried, judg. Vindication ed by their Peers: and that their Judgement and resoluti- &c. p. 273. to on was binding even to the King himself, who ought to \$77. affent to and confirm their judgements given in his own Appeal and particular cales.

(g) Malmsb. (g) In the year of our Lord, 1051, this Earl Godwin de Geltis Re-refuing to execute King Edwards unjust command, to fall gum, 1.2. C.13. with his Army upon the Inhabitants of Diver , upon the Mat. Weltm. Wigornienfis, complaint of Enfrace Earl of Boloigne, whose men they flew in an affray railed by their own infolency and abuse; Hoveden, Bromton, an conceiving it to be unjust to condemn and execute them 1051. Hunbefore a Legal hearing, trial and conviction, upon a meer tindon Hift. acculation; thereupon Enstace and the Normans accused 1.6. p. 366. Godwin and his two fons, Harold and Swain, to the King, Holinthed, Gration, Fa- that they disobeyed and went about to betra; him. Wherefore, bian, Speed, TOTIUS REGNI PROCERES, all the Nobles of the

Realm were commanded to meet together at Glocester, that the business might be there debated in a Great Parliamentary Assembly. Syward Earl of Northumberland, Leofric Earl of Mercia, and all the Nobility of England there meeting upon this occasion; Godwin and his two sons only absented themselves, thinking it not safe to come thither without a strong armed guard: upon this they raised a great Army under a pretence to curb the Welfhmen, marching with their forces into Glocestershire as farr as Beverston Castle. Whence he sent a Message to the King, to deliver no to him Earl Enstace, with his Companions, and the Normans and Bononians who kept D.ver Castle, else he would denounce war against him. The King having raifed a powerfuil Army, returned him this answer; That he would not deliver them up to him: withall commanding him and his Sons to come unto him on a set day, to answer his rai. fing of an Army against him, and disturbing the Peace of the Realm without his licenfe, and to submit himself to the Law for the same. At last to prevent a bloudy battel, by the mediation of the Nobles of England (engaged on both parties in this quartel) it was agreed, that boffages (hould be given on both sides, and that the King and Godwin should meet in another Parliamentary Council at London on a certain day, to plead one with another: where such a Council (or Parliament as our English later Historians stile it) being assembled: Godwin and his fons were fummoned to appear thereinonly with 12 men to attend them: which they think-

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ing both unlife and diffronourable to them, refuled to appear without nottages and pledges also given for their fatery , retuling to furrender their Knights fees to him; the King for their contempt to appear and juli he themselves in his Court of Parliament, thereupon in suo Concilio communi Curiæ fuz judicio; by the Common Council and Judgement of his Court (of Parliament) banished Godwin and his 5. Sons out of England : and a Decree was published, that they should depart within 5 days out of England; Which Judgement and Outlawry against them, was given in Parliamento pleno, as Radulphus Cistrensis in his Poly.h. onicon, Henry de Knyohton, de Eventibus Anglia, I.I. c.11. and other Hiltorians inform us. Godwin and his Sons hereupon departing the Realm, infested it both by Sea and Land, till at last raising a potent Navy and Army, to prevent further danger and effusion of blood; the King by the COUNCIL OF HIS NOBLES affembled for that purpole; reverled the unjust Judgements given against them, restored them to their Lands, Honors, Powers, and banished those Aliens who give the King ill Counsel, and incensed him against Godwin and the Englifh.

(b) King Edward Anno 1055. Habito Londini Conci- (h), Henry lio, holding a Parliamentary Council with his Prelates Huntindon and Nobles at London, banished Algarus Son of Leofric Hist. 1.6. p. 366. Poly-Earl of Mercia out of the Realm (i) Quia de Proditione chron. 1.6. c.20 Regis in CONCILIO CONVICTUS fuerat; because he Chron. Johan. was convicted in the Council of Treason against the King; Bromton, col. as some Historians write: yet Florentius Wigorniensis, Si- 445. meon Dunelmensis, Hovedon Henry de Knyghton, and others (i) Hen. de Knyghton, that he was banished sine culpa, without any crime Event. Angl. at all: whereupon he coming with 18 ships out of Ires 1. 1. c. 11. land, joyned with Griffin King of Wales, raised a great Willemus Army and invaded England; whereupon by agreemen he sis, de Gestis was restored by the King to his Earldom: After which, (k) Regum, 1. 2. Anno 1058, he was bauished the second time, and by the c. 23.

Hist. p. 898. Wigorniensis, Simeon Dunelmensis Hoveden, anno 1055, 1058.

ay and alli tance of Griffin, rettored again to his Earldom

(whereof he was unjuly deprived.)

Hoveden, Annal, pars prior, p. 456, 457. Simeon gornienfis, Huntindon, Bromton, Holinshed, and others, Anno 1174) 1075.

In the year 1074. "Waltheof Earl of Northumberland, with fundry other Earls, Bishops and Abbots, and other Eng i hmen, meeting together at the mariage of Earl Ral h Dunelmenfis, to the daughter of William Fire Orbert, conspired togeth. er against King William the first (then in Normandy) 10 Florent. Wi-expell him out of his kingdom, reputing it a great disho. nour, that an illegissmate Bastard should rule over them: for which purpole they raised forces and confederated them. felves with the Danes and Welshmen. But being resisted Speed, Daniel by the Kings party and routed; thereupon the King polting into England, imprisoned Roger Earl of Hereford, and Earl Waltheof, though he revealed the whole conspiracy to Archbishop Lanfranke, and submitted himself to the King before it brake our, by which means it was timely suppres-The King the next Nativity of our Saviour following, CURIAM SUAM TENUIT held his Court (of Parliament) at Westminfter; wherein, " Ex eis, qui contra eum cervicem suam erexerant, de Anglia quosdam " exlegavir, quosdam eruris oculis, vel manibus truncatis, ci desurbavit; Comites vero Waltheolfum & Rogerum . JUDICIALI SENTENTIA DAMNATOS arctiori "custodiæ mancipavit; and the next year 1075. Comes Waltheofus juilu Regis Willielmi extra Civitatem Winto-" nie ductus est indigne, et crudeliter securi decapitatur, et in eodem loco terra obruitur et in bivio sepelitur. Sir Edward Cook in his 2. Institutes p. 50. affirms, that this Roger Earl of Hereford was tried BY HIS PEERS, and found guilty of this Treason, PER JUDICIUM PARIUM SUORU M: who was thereupon imprisoned all the days of his life. If then this Court thus held, was a Parliament, and those Earls there tried and found guilty of Treason in it by their Peers even under the Conqueror himself; it isa most pregnant Authority to prove; that Peers are triable only by their Peers in Parliament; that they are the only Judges in Parliament in cales of Treason, and did then give sentence of banishment, and pulling out the eyes, and cutting

cutting off the hands of Traytors of inferiour condition, as well as fentence of death, decapitation, and perpetu-

al imprisonment against those two Earls.

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(1) Anno 1070. There was a GREAT COUNCIL held (k) Florenat Winchester , jubente & prasente Rege Gulielmo , where tius Wigorin Stigand Archbishop of Canterbury, his Brother Bishop niensis, Mar. Agelmar, and fundry Abbots were degraded for many Westm. Mar. pretended rather than real crimes and mildemeanours , ton, Simeon "operam dante Reg: u: quamplures ex Angliis suo hono- Dunelmensis, "re privarentur, in quorum loco luz gentis personas sub. Hoveden and "rogavit, in confirmationem lui (quod noviter acquire. others, "rat) regni. Hic & nonnullos tam Episcopos quam Ab- Anno 1070, "bates, quos nulla evidenti caula, nec Concilia, n.c.e-"ges secuii damnabant, suis honoribus privavit, & us-"que ad finem vita cultodia mincipatos detinuit, ful-"picione tantum inductus novi Regni: As Florentins Wi (1) Florengorniensis and others inform us. And in another tius Wigorni-(1) Council held the same year at Windsore, Bishop Agelric ensis, Anno (for pretended crimes) was uncaronically degraded, 1070, p. 4316 without any fault, and presently after sent Prisoner Paris, Hoveto Marlebridge: In this Council many Abbots were like- den, Huntinwife degraded, and Norman Monks put in their don, Simeon places.

In the 7 year of William Rufus, (m) Anno Dom. 1094. (m) Eadmethere fell our a great difference between the King and rus Hift, Nov. Archbishop Anselm upon this occasion. The King alle- 1. 1. p. 25. to ged that it was the royal prerogative of him and his An. 32. Antiquicestors, That no man without his license or election should Brir. p. 101 nominate or acknowledge any one within the Realm of England, 102, Gul. to be a lawfull Pope, or yield obedience to him as Pope: and Malmesbury that who foever would deprive him of this royal prerogative, it de Gestis Pontif. Angl. was all one as if he endeavoured to degrive him of his Crown. 1. 1. p. 219 Anselm whiles he was Abbot of Becca in-Normandy, be to 230, Speeds fore he was made Archbishop of Camerbury, had acknow- History, p. ledged Urban to be lawfull Pope, whom the King had nor 462, 463,464? yet received as Pope, and relolved to receive his Pall from vol. 3. p. 22. him, and by no means to recede from this his (subjection and to 36. obedience to him. Upon which occasion the King being

Dunelmensis

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highly displeased with him, protested, That Apselm could not possibly keep that allegiance which he owed to him, and likewise his obedience to the Apostolick See, against his will, they being inconfiftent together; and thereupon reputed him a Traytor to his Crown and dignity. " joitur perivit inducias ad illius rei examinationem. quarenu Episcopis, Abbatibus, cundisque regni Dincipi bus una cocuntibus communi allenlu befinfretur; virum "falva reverentia & obesientia jedis Apoltolicæ pollit fi-" dem Regi terreno servare, an non? Quod si probatum " inquit, fuerit, utrumque fieri minime polle, fateor " malo terram tuam, donec Apoltolicum suscipias, exe-" undo devitare, quam beati Petri ejusque Vicarii obe-"dientiam vel ad horam abnegare. Dantur ergo indu-" ciæ atque ex Regis sanctione firme tottus Regnt Bo-"bilitas quinto Id. Martii, pro ventilatione itius caula " in unum apud Rochingheham coit. All the Bishops, Abbots and Nobles being there affembled in a Parliamentary Council, this controversie between the King and Angelm being Hifly debated for many days, The King required, and the Bishops and Nobles much pressed Anfelm, fingly to submit himself to the Kings Will, without any (aving of his obedience to the Pope: which he peremptorily refused, this being the sum of his answer to the Bishops and Nobles. Cuncti noveritis in communi, quod in his que Dei (unt, Vicario be ti Petri obedientiam; & in his qua terrena Domini mei Regis dignitati jure competunt ; & fidele consilium & auxilium propensus mea capacitate impendam. The King extremely incenfed with his answer, most intirely inquired of his Bishops and Nobles; what he should object against his speeches? After much consultation they agreed upon an answer; telling Anselm, Noveris totum regnum conqueri adver sum te, quod nostio communi Domino conaris decus Imperii sui, Coronam auferre, Quicunque enim Regia dignitatis & consuetudines tollit, Coronam simul & regnum tollit, &c. Whereupon they advised him to renounce Urban, and to submit to the King, and crave his pardon for his offence; Which he refusing,

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they perswaded the King to give him no songer time to advile, if he perlisted in his obstinacy; Sed in eum mox judicit Cententiam inveht, juberer: The King and Bishop of Durham prened , I hat he might be deprived of his Ring , Pastoral staff, and Beshop ick, and banished the Realm, if he would no submit to the Kings will; which some of the Nobles milliking (conceiving, that he being their Superiour and Metropolitan, could not be judged by them, but by the Pope alone) the King said, Quid placeat si hac non placent? dum vivo parem mihi in regno utique sustinere nolo, Anselm thereupon defired the Kings fafe conduct. promising voluntarily to depart the Realm, but refused to relign his Bishoprick; which the King refused to grant unlesse he resigned it: At last, by the mediation of the Nobles and Bishops, the King granted him longer time to confider of his absolute submission to him; upon the promise of his loyal and peaceable deportment in the interim, and so this Parliamentary Council ended, the proceedings whereof are at large recorded by * Eadmerns , * 1.3.p.70.&c. well worth perulal.

Anno 1095. Robert de Mulbrain, William de Anco, (n) Th. Waland many others, conspired to deprive King William Ru- singham Yrofus both of his kingdom and life, and to make Siephen digma Neu-Earl of Albemarl King, whom the King having thereupon stria, p. 33, taken Prisoners by an Army raised against them, and 34, committed to safe custody, till their trial in Parliament.

Anno 1996. 8 days after Epiphany, apud Salisberiam tennit (ONCILIUM; in quo jussit Gulielmi de Auco, in duello viêti oculos eruere, & testiculos abscindere, & dapsferum illius Gulielmum de Alderi, suspendi. Comitem Odonem de Campania, pradicti Stephani patrem, & quosdam alios tradicionis participes in custodiam posuis. Here the King and Lords in a Parliamentary Council, judge and condemn Traytors to death, imprisonment, or other corporal punishment, as well Commons as Peers.

In the year of Christ, 1100. * Ranulph Flambard Bi- jo. Bromton, col. 997. Hen. Huntind. Hist. 1.7. p. 378. Mat. Paris, p. 51, 54. Will. Malmesb. de gestis Pontis. Angl. 1.3. p. 277, 278. Hen. de Knyghton de Event. Angl. 1. 2. c. 8. Polychr. 1.7. c. 12. Godwins Caralogue of Bilhops, p. 645, 646, 647. Roger de Hoveden Angl. 1. p. 648.

nal, pars prior, p. 648.

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Thop of Durham , Confilio gentis Anglognm , By the Mote of the Tobole Parliament of England, was clape up Prisoner in the Tower of London by King Henry the I. at the importunity of the Nobles, and the innumerable complaints made against him, he being the chief Author and promoter of all the evil customs, extortions, and unjust oppressions of the Realm and people, exercised by King William Rufus (then redressed by the Charter of King Henry, made and ratified by the affent, advice of his Nobles and Barons) exacting many times twice as much of the people as Wlliam Rufus required, wherewith the K. very well content, would laugh, and tay, That Ranulph was the only man for his turn, who cared not whom he displeased, so he might please his Master. After he had been imprisoned some space; he made an escape our of the Tower by a rope, hurting his Leg and Arm by a fall from the wall to the ground, the rope being too short; & then escaping into Normandy, instigated D. Rob. to claim the Crown, and invade the Realm, to his own great loss, the effusion of much Christian blood, and great disturbance and damage of the kingdom; being ad omne feelus

Anno Dom. 1102. (p) There was a GENER AL Council held in the Church of St. Peters in Westminster on the Wellfide of London; Communi affensu Episcopozum, de geftis Pon- et Abbatum, et Principum toffus regni : buic conventui affuerunt (Anleimo Archiepiscopo petente a Rege) PRI-MATES REGNI, quatenus quicquid ejus dem Concilis au-103, 104. Mat. Ctoritate d. cerneretur, UTRIUSQUE ORDINIS concordi Weftm. Mat. cura & foll ci udine ratum ferbaretur; fic enim neceste Paris, Hove-grat. In this Council the Sin of Symony was hit of all den, Bromton, and by the authority of the holy Fathers, and An. 1102. Si. condemned by the authority of the holy Fathers, and Wide Abbot of Pefcore, Wimundus of Tavestock, and Baldnelm.col. 217, win of Ramfy, Godric of Burgh, Haymo of Cernel, 228.Radulph. Egelric of Midleton being therein convicted of Simony, were removed and depoted for it by this Council, and Bromton, col. Richard Abbot of Ely, Robert of St Edmonds and the Abbot of Miscelen deposed for other particular crimes and offences.

(p) Eadmerus Hift, Nov. 1. 3.p.67. Wil. Malmesbury tif. 1.5.p.220. Antiqu. Ecclef. Brit, p. meon Dude Diceto, col, 499. 1000.

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oftence:. After which the King being much incented against Anselm and other Bishops for refusing to consecrate thole Bishops whom the King invelted with a staff and ring, the King and Anselm having a hot contest about it at Canterbury's Ne ipfe perdende suorum jura Antecefforum ipfis villor effet : " Anfelm requefted the King c . Eadmerus A deferr he bufinels rill Easter . nt andijo Episcopozum ,1. 3.p. 70,8c. Regnique Palmatum Concilto, qui modo non ajjunt; re. Antiq. Ecclef. spondeam kin : which the King contenting to, at Easter, Brir. p. 105, communis Concilii vocem unam accepit, that he should goe p. 170, 171. 4 to Rome to the Pope to procure a repeal of the Canon, made against investionres; and that as the Kings Emballador, Regis preces, Regnique negotia Apoltolicis auribus cxpositurus: Anselm undertaking the journey to Rome, like an Arch-Traytor, so incensed the Pope against investitures, and the King, That William Warenast the kings Embassador relling him, He knew the King would rather tole his Crown than this Privilege of Investitures: The Pope theretoreplyed; Yea, let him lofe his head also if he will, whilst I live, be shall neve appoint any Bishop in his Realm, but I will resist him what I may. The King hereupon (by the advise of his Nobles) prohibited Anselm to return into England, and seised all his Temporalties, and Goods moveable and unmoveable into his hands, keeping him in exile for 9 years space, after which he was conditionally reflored, at the mediation of the Kings Sifter Adela.

Anno 1106. *Robert Duke of Normandy, was first ad. *Henry de judged to a shamefull cruel death, and after that to have Event. Angl. bis eyes pulled out, and he kept perpetual Prisoner: and Earll. 2. c. 8. col. Morton with others adjudged to perpetual prison, BY 2374. Here p. THE PEERS, for taking up arms against King Henry 172.

King (q) Stephen having against his own, the Bishops (q) Will.

and Nobles Oaths to King Henry and Mande, ususped the Historia No-

181, 182, 183. Godwins Catalogue of Bishops, p. 319, 320, 321, 322. Holineshed, p. 50, 71.

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Grown, Anno 1199. There were divers rumours spread a brond, that Robert Earl of Normandy, and Mamae would invade England, and that Roger Bishop of Salisbury, and Alexander his Nephew, Bishop of Lincoln, who were very powerfull, wealthy, and had built, fortified and furnished divers strong and stately Castles, would upon the Empress landing surrender them to her, and revolt from Stephen to her party, Paternorum scilicer beneficiorum memoria inducti, being both advanced and inriched by her father: Whereupon the Nobles oft times wished Stephen to compell them speedily to refign their Castles to him, least he repented too late for not doing it, when they were in the Enemies power. Thereupon the King on the 8 of July apud Oxenford, FACTO CONVENTIL MAGNATUM, fummoned both these Bishops to this Parliamentary Atlembly; to which Bishop Roger was very unwilling to come, having a great reluctancy in his mind against it; whereupon he excused his coming, by reason of his age and infirmity: but that would not be admitted, come he must, and did. When these Bishops came to Oxford, there fell out a sudden quarrel between the servants of the Bishops, and the servants of Alan Earl of Britain, as they fate together at the Table, the Bishops men quarrelling with the Earls, and falling first a fighting with one another with their fifts, and at last with their fwords, a fore tray was made, divers being wounded on either fide, and one flain; the Earls fervants being put to flight by the Bishops. The K. taking this occation, Conveniri juffit Episcopis, ut Curta lux latistacerent De boc, quod homines corum pacem ipfius exturbaf. fent: Modus fatisfactionis foret, atestaves castellorum (w orum quaft fidei vadis traderent. The Bishops said they were ready to give the King latisfaction, but delaying the furrendring of their Caffles; he commanded them to be more firietly watched, left they should depart; and the king carrying the Bishop of Salisbury with him, belieged his Caltles till they were furtendred to him by composition. This act of the king was variously interpreted, and very da

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very ill released by all the Bishops, who thereupon revolted from him, first in their affections, and then by their actions to Mande, when the arived, and elected, declared her right heir to the Crown. Henry Bishop of Winches fer the Popes Legar, though King Stephens own Brother, publikely to the Kings face, as well as privately, affirmed, Si Episcopi tramitem justicia in aliquo transgrederiniur non ene Regis fed Canonum judicium: fine publico et Occlenattico Concilio illos nuna pollessione privare debuille: Regem id non ex rectitudin.s zelo, fed commodi fui compendio fecisse, qui Castella non Ecclesis, ex quarum sumptibus, et in quarum terris constructa erat, reddiaerit; (ed Laicis, eisdem. que parum religiosis, contradiderit, &c. Quapropter vigorem Canonum, experiendum ratus, CUNCILIIO quod quarto Ca. lend. Septembris celebraturus erat Wintonia, frarem Stephanum, incunttanter adeffe pracepit. Dicto die omnes fere Eviscopi Anglia, cum Theobaldo AR CHIEPISCOPO Cantuarienfis, venerunt Wintoniam : In which Counc ! he Bo. of Winchester first reading his Legats Commission in England granted him by the Pope, and then, relating the great indignity done by King Stephen to those Bisho is by imprisoning their perions and feiling their Castles again't the Canons, demanded the Archbishops and Bishops advice what to do therein: concluding, Se ad executionem Concilii, nec pro Regis amicitia, qui bi frater erat, nec pro damno possessionum, nec etiam pro capicis periculo defuturum. Rex cause sua non diff sus Comites in Concilium mist, que. rens cur vocatus effet? Responsum est à Legato in compendio: Non debere illum, qui fe Christi fidei subjectum meminiffet, indignari, fi à ministris Christi ad satisfactione vecains effet, tanti reatus confcius, quantum nostra fecula nunquam vidiffent, &c. Confulte vero in prasentiarum Rex fuceret, si rationem facti sui redderet, vel Canonicum judicium subiret : Ex debito etiam ofortere ut Ecclesa faveret, cujus finu exceptus nm manu militum in regnum promotus fuiffet. Hereupon the Earls departing, having provided an answer, returned with one Albric de Vere, an experienced Lawyer : who aggravating the Bishaps offences against the King, and

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the tray of their Servants at Oxford in a modelt manner, without reproach; alleged, that they being accused by general reports in all mens mouths, for intending to deliver up their Cattles to Mand upon her arival, the King had thereupon apprehended and imprisoned them, not as Bishops, but as his Servants and Officers, and had not token away their Castles by force, but by the Bishops volund tary lurrender, ut calumniam de tumultu, quem in Curia coneitaverant, evaderent: That the money found in them, was only that the Bishops had collected for King Homy his Uncles use, and belonged no v to his o vn Eschequer; and that the Bishops willingly parted with the mony and Castles to him, for fear of the things they had committed against the King, who wanted not Witnesses to prove it. Therefore he defired the agreements between him and the Bishops might remain confirmed. Bishop Roger on the contrary, denyed he was ever the Kings Officer, or received lis moneys; adding, Si justiliam de rebus sibi ablatis in illi CONCILIO non inventret, cam in audientia majoris Curia querendam. The Legat gently replyed, Omnia que dicuntur ontra Episcopos prins in Concilio Ecclesiastico et accusari, o a : vera effent, decui fet inquiri, quam in indemnes contra (a. winnm Decreta sententiam proferri. Rex staque faciat quod. in forensibus judiciis legitimum est fieri, ut revestiat Episco. pos de rebus suis. Aliequin jure Gentium, disseisati non placitabunt. After much debate on both fides, the caufe was put off 3. dayes one after ano her till the Archbishop of Rhoan came. Is ubi venit, dixit, fe concedere ut Caftella Episcopi haberent, si se jure habere di bere per Canones probaii possent; quod quia non possent, extrema improbitatis esfe contra Canones niti velle. Et esto (inquit) justum sit nt habeant; Certe, quia suspectum est tempus, juxta morem aliarum gen. tium, Optimates omnes claves munitionum suarum debent vo. luntati Regis contradere, qui pro omnium pace debet militare. Ita omnis controversia Episcoporum infirmabatur. Aut enim secundum Canonum scita injustum est, ut habeant Castella; aut si boc pro iudulgentia principali toleratur, ut tradant clawes necessitats temporis debent cedere. Albric the Kings Lawyer

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Lawyer added; that the King was informed the Bishops intended to fend some of themselves to Rome against him: But he advile h none of you to prefume to doe it: for if any of you shall presume to go any whither against his will and the dignity of the Realm of England, it is provided that his return will be very difficult. Hereupon the Council prefently diffolved, and lo ita difceffum eft, ut vec Rex censuram Canonum pari vellet, nec Epis opi cam consultum exercere ducerent duplici ex causa; seu quia Principent excommunicare fine A postolici conscientia temera ium esset, seu quoniam audirent, quidam etiam viderent gladios circa se

(r King Stephen in the year 1152. Convocato apud Lon- (r) Chronicon doniam, Generali Concilio, cum Episcopis, Proceribus Gervafii, col. et Robilibus Anglia, tum pro Regni negotiss, cum etiam pro Nub.igen,l.t. negotio vacantis Ecclesia Eboracenfis; much fearing and c.32. Matth. fu pecting the valont and power of Young Henry Duke of Westm. anno Normandy (right heir of the Crown) ne in primo gradu 1152. Gervas. hereditas caffaretur, frande retenta, proposuit anmo filium sun Act. Pontif. Eustachium, regio diademate infignire, & de jure debito & ju- Cant. col. rato Henticum pravenire & penitus privare. This design 1668. Antiq. of his being propounded in this Great Council, the Earls Ecclef. Brir. and Barons allented to it; and thereupon (as Matthew wins Caral, of Westminster records) Comites & Barones Anglia fecerunt Bishops, p.85. ligantiam & fidelitatem Eustachio, filio Regis Stephani. 86. Holinshed Whereupon King Stephen requested Theobald Aschbishop Vol. 3. P. 57, of Canterbury, with the rest of the Bishops, to crown and History, p. 496 anoint Enstace King. Which the Archbithop perempto- 497. rily refused, the Pope having expressy prohibited him by his Letters; ne filium Regis qui contra jusjurandum reg. num usurpasse videbatur, in regem sublimaret : that he should not crown the Son of a King, who had usurped the Crown and kingdom, against his Oath to Henry the first, Queen Mand, and their heirs. Hereupon King Stephen and his Son Eustace with their complices, being highly incensed, commanded all the Bishops with the said Archbishop, to be shut up in one house where they were asfembled, defiring to extort that from them by terrors and threats Ff 2

threass, which they could not giin by prayers or price.

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Some of the Bishops struck with fear, deferted the Arch. bishops advice, and seemed to comply with the King; but the Archbishop continuing firm and resolute in his purpole, escaping out of the House by a miraculous accident, took his barge, and rowing down the Toames, got beyon! Sea, and to escaped the threats of the King and Enstace, and defeated him of his much defired honour. Whereupon the King being more exasperated than before (by the advice of the Council) presently banished him the Realm, seifed his Temporalties and confiscated all his goods: Who by way of revenge stirred up Duke Henry, right heir to the Crown, to invade the Realm, the very next year; to whom most of the Nobles and people (mindfull of their former Oaths) prefently flocked, deferting the perjured Usurper Stephen; who against his Oath invaded the crown by the instigation also of Roger Br. of Salisbury; who though advanced by King Henry the 1. from a mean condition to the greatest place and power next to the King; yet proved to treacheroully ingratefull to his heir Queen Mand, to whom he had (worn allegiance, (1) U: Rege defunito qui ei tanta in hoc seculo claritatis autor extiterat, circo legitimos ejus haredes infidus ne S ephanum Sacramento illo aque astrictum allocaret, con solum non est veritus tucurrere perfurium, verum etiam aliis insigne pejerandi pattrurit cr. emplam. And therefore was himtertas ingratefully and perfidiously handled by King Stephen, who imprisoned his person and his Nerhew Alexanders, Bishop of Lincoln very firstly, seised all their magnificent Castles, Wealth, Treasures & pined them with famine; so that this perjured Bishop for loss of his Castles or Treatures, fell distracted through grief, and died mad de perspicuo Dei judicio vitam longo tempore plendidifimam infelicifsimo fine concludens;

(t)Chronicon as Neubrigensis observes.

Gervasii, col. King Henry the second succeeding Stephen, App. 1164.

1386, 1387,
Roger Hoveden, annal. pars posterior, p. 491. to 534. Mat. Paris, p. 94. to 127.
Mat. Westm. Bromton, ann. 1166. &c. Antiqu. Eccles. Brit. p. 118. to 124. Godwins Catalogue of Bishops, p.86. to 96. Fox Acts and Monum. p. 186. to 206.
Speeds History, p. 503. &c. Holinshed, p. 69, to 81.

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to suppress the usurpations of the Pope and Prelates on the Crown, immmoned all the Bishops, Abouts, Priors, En ls, Barons and Nobles of the Realm to a Pariamentary Great Council at Clarindon, where they made a recognition of all the antient Cultoins and liberties of the Realm, ufid in the reign of king Henry the first, which they all took a Tolemn Oath inviolably to preferve to the King and his heirs for ever, and Archbishop Becket amongst the rest. The 11 Article was this: Archiepiscopi, Episcopi, & universe persona regni, qui de rege tenent in capite, habent possessiones fuas de Domino Rege ficut Baroniam . &c. ficut Baro. nes cateri bebent interelle judiciis curia Regis, (10 wit of his Court of Partiament, (n) as the protestation of the Archbishop and Prelates in the Parliament of TI R. 2. An Abridge ment of the sor. Patl.n. 9. 11. refolvesit \ cum Baronibus, quo-Records in ulque perbenfatur in judicio ad diminutionem Dembzo- the Tower,p. rum bel ad mostem, An unaniwerable authority, that 322. Seldens the Barons and Peers in Parliament, had antiently, in the Titles of horeigns of Henry the 1. and 2. and long before, a judicial nonr, part 2 p. power even in criminal (as well as canonical) causes Rot. Parl. p. deterving loss of Member or death, and that as well in 1, m, 2, rot. 34. cases of Commons as Peers. It is observable that though according to this Article the Bishops in those days did not pronounce fentence, nor were not actually prefent at the giving of judgement by the other Barons in cales of blood; yet they took upon them the name of Barons, and were present on that account; at all the debates, in criminal causes, and gave their votes therein in our Parliamentary Councils, ablenting themselves only from the fentence and execution, for which Petrus Ble-Sensis Archdeacon of Bath under king Henry the 2. thus juitly centures them. * " Quidam Episcopi Regum muni- * Canon E-"ficentias & eleemofinas antiquorum, abufive BARO Tractaius de "NIAS & REGALIA VOCANT, & in occasione cur- Inflicutione pissimæ servicutis, SEIPSOS BARONES appellant; Episcopi Bib!... vereor ne de illis quereletur Dominus, & dicat * Ipsi Patrum, Tom. "regnaverunt, et non ex me, Principes extiterunt, & 12. pars 2. p. "ego non cognovi. Scias te asiumpfiste Pastoris officium . Ofea 8:4

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"NON BAKONES, Cerce * Joseph in Agypio pairem . Gen. 48.38, . lum & fratres intiruxit , ut dicerent Pharoni , viri pa-" stores sumus. Maluit eos profiteri Pastoris officium, "quam PRINCIPIS aut BARONIS, &c. Vacuum a " fecularibus oporter elle animum divinæ fervitu: is ob. "fequio confecratum, &c. Illu! coelettem exasperat " iram, et plerisque discrimen ærernæ damnationis accu-. mular, quod quivam Principes Sacerdotum et Sente "ozes populi, licet non bident judicia fanguinis, cabem . tamen tradant disputando ac disceptando de illis, fe. "que abeo immunes a culpa reputant, quod mortis aut "truncationis Dembzogum jubicium Decernentes . a "pronuntiatione buntarat, et executione panalis fententia fe absentant. The very words of this Article of Clarindon) " Sed quid hac fimulatione perniciofius elt? "Nunquid discutere & diffinire licitum elt, quod pro-"nunciare non licet? Certe Saul de morte David mul-" tiplici machinatione tractabat, (let others observe "it) & ut malitiam suam sub umbra innocentiæ palli-"aret, dicebar, " Non sit manus mea in eum, sed sit super eum manus Philistinorum. Sane quantum hac diffimu-"latio ipsum excusabat apud homines, tantum apud "Deum eundem damnabilius accusabat; Expressa fimi-"litudinisforma, in CONSITORIO illo, in quo "Christus ad mortem damnatus est, Pharifei & Scribe "dicebant, Nobis non licet interficere quemquam : cum-Johan, 18,3. " que tamen clamerent dicentes, crucifige, sententiam in "eo occisionis cruentæ malignitate dictabant. Quem "occidebant gladio lingua, publice protestabantur, sibi "occidere non licere : eorumque iniquitas eo ipso dete-"Rabilior erat, quia ut evaderent humanum judicium, " cam simulatione innocentiæ occulteban; Animabus prælatus es, non corporibus: nihil Prælato commune eft cum Pilato: Christi villicus es, & Vicarius Petri; pec " respondere oportet Casari, de commissa tibi jurisdi-" Aione, sed Christo, Quidam tamen per usurparas seculi "administrationes se vinculo curiali obnoxiant, & quasi renunciaverint suæ privilegio dignitatis, calculum "durioris eventus expectant. Thefe

* 1 Reg. 18. 17.

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There Articles of Claringon were not only Iworn to, but likewife subscribed and feated by all the Bishops, except Archbilho, Becker, who refuled to fign or fer his feal unto them, unleste the Pope would first confirm them by his Bill. The King hereupon lent two Embassadors. to Rome unto the Pope, to crave his allowance of thefe. Laws; but Becket had to dealt with the Pope before hand (who knew the caute to be more by own than Beckers) that he refested the fore; and withall abfolied Becker and the other Bifliops from the Oath of allegiance they had taken to observe them. Whereupon the King being highly offended with Becket; summoned a Great Parliamentary Consider the Prelates and Nobles at Northampton, wherein he demanded an account of 3000cl, which came to Beckers hands during his Chancellorship: which he excusing, and refusing punctually to answer unto, the PEERS and BISHOPS condemned all his moveables to the Kings mercy. After which the Lords and Deers by joynt consent adjudged him guilty of perinty, for not reclding temporal obedience to the King, according to his Oath taken at the Conneil of Clarindon, The Bishops thenceforwards openly disclaiming all obedience to him, as their Archbishop: The next day, whiles THE BISHOPS & PEERS were consulting of some further course to be taken with him, Becker canied to be fung before him at the Altar, The Princes fet and speak against me, and the Ungodly persecute me, Oc. And forthwith taking his filver Crosser in his hands (a thing strange and unheard of before) en red armed therewith into the Kings presence, though earnestly distinaded from it by all who wished nim well; wherewith the King being inraged, commans bed the Deers there allembled in a Parliamentary (ouncil, to fit in judgement upon him, as on a Trayto2 of perjured person; who accordingly adjudged him both a Traytoz and perfured Rebel, and that he hould be forthwith apprehended and call into prison as such a one, and tox feit all his goods and tempozaities. of Cornwal and Liscester, who SATE AS JUDGES, ci-Ling

ting him forthwith to hear his sentence pronounced; he immediately appealed to the Sec of Rome, as bolding them no competent Judges: Whereupon all the Prelates and Pobles reviling him with the name of Trapto; and persured person; ne replyed, That were it not for his function, he would enter the duel or combate with them in the field, to acquit himself from Treason and Perjury. And so specing away from them for sear of imprisonment, and disguising himself under the name and habit of Dereman, fled in a small Fisher boat into Flanders; Thereupon the King seised all his goods and temporalties into his hands, and sent Embassa ors to the Earl of Flanders, the French King and Pope, praying them in no wife to suffer or softer within their Dominions one that was such a notosious Trapto; to him.

The Proceedings against this Traytor Archbishop Becker.

In this spagnum et solenne Contilium held at Northampton, Anno 1165, being very memorable, and more fully relating the manner of our Parliamentary Process in that age, and the judicial jurisdiction and proceedings of the Lords in Parliament, as well in civil as criminal causes than any other I have met with, I shall give you a more full account of them out of three of our Hittorians (who record the same) in their own words.

* Annalium pars posterior P. 494: 495.

The first of them is Roger de Hovedrn, who thus relates the proceedings. Anno gratia 1165, qui erat annus undecimus Regni Henrici Regis, idem Rex Henricus Pags num congregabit Contsium, apud Northampton, ubi Rex taxium magnum tecit, Ibima Cantuariensi Archiepiscopo. Imprimis enim fecit Rex equos suos hospitari in hospitiis illius: Sed Archiepiscopus mandavit Regi, quod ipse AD CURIAM NON VENIRET. DONEC hospitia sua vacuarentur ab equis & hominibus suis. In chrastino Colloquii venit Thomas Archiepiscopus AD CURIAM REGIS in capella ejus, & statim petiit ab eo licentiam transfectandi ad Alexandrum Papam, qui ea tempe-

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tempellate moram faciebat in Francia, sed habere non potuit. Dixit enim ei Rex; tu prius respondebis mihi de injuria quam fecisti Johanni Marescallo meo in Curia tua. Conquestus enim erat regi idem Johannes, quod cum calumniatus offet in Curia A chiepiscopi terram quandam de illo tenendam jure hereditario, & din inde placitaffet, nullam inde pounit assequi Justitiam; & quod ipse curiam Archiepiscopi Sacramento falsificaverat secundum consuetudinem Regni. Cui Archiepiscopus respondit : Nulla justitia defuit 10hanni in curia mea, fed ipfe (nescio cujus confilio, an propræ voluntaris motu) attulit in Curia mea quondam toper, & juravit super eum, quod iple pro defectu justicia a Curia m:a recettir: Et videbatur fusticiariis Curia mea, quod ipse injuriam mihi fecit, quia sic à Curiamea recessit; cum fatutum sit in regno vestro: Quod qui Curiam alterius falsificare voluerit, oportet eum jurare super sacrosancia Evangelia. Rex quidem non respiciens ad verba hæc, juravir, quod ipfe baberet de eo justitiam & judicium. Et Barones Curix Regis sudicaberunt eum elle in misericozdia Regis. Et quamvis Archiepiscopus niteretur judicium illud fallificare, tamen prece & confilio BARONUM poinit fe in milericordia Regis de quingentis libris, er invenir ei inde fidejuffores. Et fic a Curia recedens, ad hofpitium * al. tram et fium ivit, & propter * tædium & dolorem quam in ani indignatione, mo conceperat decidit in lectum, & in gravem ægritudi. nem. Quod eum Regi constare, ut eum magis affligerer, quam, flatim misit ad eum, et summonnit eum per bonos summoni. tores, quod in crastino venisset, paratus reddere illi rationem villicationis sua, quem habuit in regno suo ante consecrationem suam. Archiepiscopus autem sciens, quod grave ei immineret exterminium, fi in Curiam venire properaffer, modis omnibus dilationem quæsivit : tum quia tempus sommonitionis brevissimum erat, tum quia ipse graviter infirmabatur. Cumque Rex vidiffet quod Archiepiscopus non veniret ad diemillum, mistrad eum Robertum Comitem Leicestria, & Reginaldum Comitem Cornubia, ad videndum ægritudinem illius. Qui cum venissent, invenit eum in lecto jacentem infirmum; et ad retitionem

tionem illius dederunt et respectum veniendi ad (uri. am ufque mane. Eodem die dictum erat ei, et nun. ciatum a familiaribus regis, quod fi iple ad Curiam Regis venisset, vel in carcerem mitteretur, vel interficeretur. Super his igit ur Archipræful habito cum fuis familiaribus confilio, per confilium cujusdam Sapientis, in crastino antequam ipse ad curiam pergeret, cum summa des otione celebravit Missam de S. Stephano protomartyre; cujus of. ficium tale eft, Etenim federunt Principes, & adverfum me loquebantur, &c. causam suam Judici, qui Deus eft, commendavit. Tamen pro celebratione Missa illius graviter accusatus fuir postmodum à Gileberto Londonensi Episcopo, quod Misiam illam celebraverat per artem magicam, & in contemptu Regis. Itaque polt celebrationem Milla Archiepiscopus imposuit collo suo stolam, deinde induit cappam nigram canonicalem, et profectus est fratim ad Cu. riam Regis. Et flatim factus est undique magnus concur. sus populi, ut viderent finem. Iple autem portebat ettcem fuam in manu fua dextra, cum finitira vero tenebat loram equi, in quo sedebat : et cum venisset ad aulam Regis, descendit, & ipse crucem suam bajulans, intravit domum Regis. Deinde intravit exteriorem cameram folus portans crucem fuam : nullus enim fuorum fequebatur e. um : & cum intraffet, invenit plebem multam in ea, fegit. que inter illos. Tunc venit ex parte Regis ad Archiepiscopum Gilberius Londinensis Episcopus, qui multum increpavit eum, quod sic cruce armatus venit in Curia: & voluit crucem e manibus suis eripere, sed Archiepiscopus fortius eam tenuit. Henricus igitur Wintoniensis Episcopus dixit Londinensi Episcopo, frater, demitte Archiepi scopum crucem suam tenere, ipse enim debet illam bene portare. Tunc Londoniensis Episcopus multum iratus ad. versus Wintoniensem Episcopum, dixit ei; male locutus es. frater, et malum inde tibi contiget, quia contra Regem locuins es. Deinde venit ad eum Rogerus Archiepiscopus Eboracenfis, &c. qui plurimum increpabat eum, quod fic arma. tus Cruce ad Curiam veniret : dicens, quod Rex gladium habebat acutiorem; & idea si consilio suo acquiesceret, tolleret

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Crede mihi, si credis ei, tu decipieris. Fistula dulce canit volucres dum decipit auceps. Impia sub dulci melle venena latent.

Archiepiscopus autem Cantuariensis crucem suam deponere noluit, sed dicebat. Si gladius Regis carnaliter corporacadit, gladius mens spiritualiter percutit, & animam mitin in gehennam. Et dum iple sederet expectans, dixerunt quidam lecreto, quod mors ejus jurata era: à regalibus; & ex illa hora quanvit occasionem recedendi a Curia: Ec ut commodius recedere possit, appellavit ad sententiam summi Pontificis; et causam Ecclesia & suam posuit sub protectione Dei, et Domini Papa; & pracepit universis Episcopis appellationem suam inviolabiliter servare. Tunc omnes Epitcopi laudaverunt ei, ut ipfe [atisfaciens volun. tati Regis, redderet ei Archiepiscopatum suum in misericordia illius; sed Archiepiscopus noluit iis inde credere. Tunc mandavit ei Rex per milites suos, ut sine dilatione vee niret et redderet ei plenariam computationem de omnibus receptis, qua receperat de redditibus Regni, quamdiu Cancellarius ejus fuit. Et nominatim de triginta millibus librarum argenti. Quibus Archtepiscopus respondit : Dominus meus Rex scit, quod ego sapins ei reddidi computationem de omnibus hiss, que ipse modo à me petit; antequam electus fuissem ad Archiepiscopaium Cantuariensem. Sed in electione mea, Henricus filius ejus, cui Regnum adjuratum fuit, et omnes Barones Scaccarii, & Richardus de Lucy Justitiarius Anglia, clamaverunt me quietum Deo, & sancta Ecclesia de omnibus receptis & computationibus, & ab omni exactione seculari ex parte Domini Regis: & sic liber et absolutus electus fus ad hujus officis administrationem; O ideo amplius nolo inde placitare. Quod cum Regi constarer, dixi Barontbus fufs, cito factte mibi juvicium de filo, qui homo meus ligius cit, of fare furi in Curia mea reculat. Et excume, judicas verunt eum capi dignum et in carcerem mitti. Tunc miht Rex Reginaldum Comitem Corpubia, et Robertum Co-Gg 2

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mitem Leicettrie ad judicandum ei Judicium De illo factum: Qui dixeruncei, Audi Judicfum tuum. Quious Arcutepilcopus respondit; procibeo vobis ex parte omnigo. tentis Dei, & sub anathemate, ne faciat s hodie de me judici. um, quia appellavi ad prafentiam Domini Papa. Dum an. remprædicti Comites redirent ad Regem com reiponio ille, Archiepiscopus exivit e thalamo, et progrediens per medium illorum venic ad nalefridum faum, & afcendi , et exi ir abaula, omntbus clamantibus polt eum & deentibus, Quo progrederis proditor e erpeda et audi judich um tuum, cum : u em veniret ad portas in enit eas claulas, & timuic fibi valde ne ab inmicis suis caperetur : fed Deus omnipotens eum liberavit. After which he privily departed out of Englind.

(d) Stepha-& Passione

* Chronicon Gervafiii col. 1394.

The 2d. is William Fitz. Stephen, a Monk of Conterbut nides de Vita who attended Becket in his troubles. Hee after a large relation of the charge of John the Kings Marshal against The: Cant. him for injuffice, mentioned by Hoveden, relates the dif-Titles of Ho. ference then happening between the Ecclefialtical and nor, part 2. c. Temporal Barons in giving judgement against him, and 5. P.705,706. the judgement it felt, and proceedings therein in thefe words. "Secunda die consulentibus Cpiscopis, Comb

"tibus et Baronibus Angliæ omnibus: Nec Roffensis " Epilcopus, "Will. Nerwic. cum plu ibi sains rondum ic. " nerat : Archie ifcopu lafa Bajeftatis Cozona Regiz " arquitur, quia scilicet ut supra narratum en, a Rege ci-" tatus pro causa Johannes (the Marshal) neque venerar, " neque idonie se excusasser, Archiepiscopi depulsio nul-"lum locum habuit : allegata tamen Johannis supracidi "injuria, et jurisdictione hujus caulæ propria & Curiæ sux "integritate, REX EXIGIT JUDICIUM. Archie-"piscopi ratio nulla est approbata. VISUM EST OM-" NIBUS ex reverentia Regiæ Majestatis, et ex astricti. one ligii homegii quod Domino Regi fecerat Archiepilcopus, & ex fidelitate et observantia tenera ejus honoris quam ei juraverar, quod parum effet defensus vel excu-" fatus, quia citatus a Rege, peque venerat, neque corpocris infirmitatem, vel neceliariam qua differri non pollit Other! o fac-

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. Officii ecclefiastici administrationem per puncios alle-"gaverat : Condemnandumque eum direrunt in patram "pecuniariam omnium bonozum suozum mobilium ad "mifericozofam Regis, De proferendo Judicio Man-Gis fuit me. Cpiscopos et Barones , utr ique aneris il-" lud imponentibus, utilique le excutantibus : Aiunt BA. "RONES; vos EPISCOPI pronunciare debecis tenten-"tiam, ad nos non pertinet. Nos Laici sumus; vos " persona ecclesiattica, sient ille; confacerdotes ejus, "Coepiscopi ejus. Ad hac aliquis Episconorum: Imo " vestri porius eft hoc officii; non notri : Bon enim eft "hoc fudicium Occlettatticum, led Seculare. Non icaemus hic EPISCOPI, 1ed BARONES. Nos BARO-"NES & vos BARONES: PARES hic fumus., Orci-"nis autem noffri ratione fruftra innicimini. Quia fi in "nobis ordinationem attenditis, & in iplo limitet at-"tendere debetis. Eo autem ipfo, quod Episcopi sumur, " non possumus Archiepiscopum & Dominum nostrum ju-"oicare. Sed quid? Rex, hac audita de pronunciando controversia, motus est. Et controversia super hoc de-"firum eff. Dominus Wintonieniis (then Henry de Bloys) "impositus dicere, tandem et invitus PRONUNCIAVIT. "Archiepiscopus autem, quia sententia vel recordationi "Curiæ Regis Angliæ non licet contradicere, sustinuit; "consilio Episcoporum, ad acta, ad mitigandum et hono-"randum Regem, folenni & manuum ipfius miffione,quafi concessionis judicit, ut moris est ibi : et omnibus Epis-"copis datis vadibus præter Gilbertum illum Londinen-"fem, qui rogatus pro eo spondere noluit : quæ ejus sin-" gularitas notam fecit.

The 3d. is e) Gervasius Dorobernensist, who thus re- (e) Chronica cords the proceedings in this Council against Becker : Gervasii, col. " Timens autem Rex, ne impune manus ejus Cantuariensis 1389.to 1394.

"Achiepiscopus evaderet, jam edoctus multiplici cogita-" tatione et pravorum eruditione quibus eum pravitatis c laqueis innodaret; præcepit PR ESULES ET PRO-

"CERES REGNI apud Northamptoniam, una cum ipio

"Archiepiscopo, CONVENIRE. Qui cum die terria

" ante teltum Sancti Calixi Papæ conveniment, Archie. " piscopus in multis accusatus est. Primo, quod cuidam " Johanni coram iplo litiganti plenam justitiam non exhi-"buir, & super hoc ad Regis præsentiam vocatus, venire " contemplit. Respondens Archiepiscopus; præfato Jo-" Johanni dixit condignam non defuisse justiciam, & Johan. " nem pon legaliter curiam fuam infamatle, qui non fuper " Evangelium, ut moris elt; sed super veterum cantuum " codicellum quem secum tulerat, voluerit pejerare. ". Quod autem super hoc citatus ad Regis non venit praer sentiam, non contemptus fuit, sed infirmitate valida in-"vicus recenzus est. His racionibus Archiepiscopus excu-" fari non poruit, fed Curfalf Jubicio et Episcopozum "consensu condempuatus est, ita ut omnia mobilia ejus " in misericordia Regis ponerentur. Quo facto; repeci tit ab eo Rex quingentas libras quas ei dum esset Can. "cellarius dicebar commodasse; Cumque allegarer Archepiscopus e contra et diceret; præfatam non commo-" datam sed de plano datam esse pecuniam : nihilominus " de suis fide justores idoneos coadus est exhibere. Et hac "opera secunda diei. Tertia vero die appetitur absque " misericordia, jubeturque de fiscalibus et Episcopatibus et & Abbatiis vacantibus ratiocinia reddere, quas in custo. " dia sua habuerar tempore Cancellaria. Respondit; se "fuper his non teneri, eo quod die electionis fuz hujuf-" modi non fuit quæstione pulsatus, & quod ecclesia Can-"tuariensis eum susciperet ab omnibus his liberum et ab-" solutum. Attamen super his prudentiores se velle con-" sulere dicebat, & de consulto respondere. Convocatis a igitur Episcopis, quæsivit Archiepiscopus; quid Do-" mino Regi super hujusmodi quastione effet responden. se dum? Whose several advices, and Speeches are there recorded at large, which I pretermit.

"His ita gestis sederunt aliquandiu sub silentio, nec erat qui amplius his aliquid adderet, etiam ante quasita ut pateret eis exitus, inclusi enim erant. Volo, inquit Dominus Camuariensis, loqui cum duobus Comitibus qui cum Rege sunt, Robarso scilicet Legeschrensi, &

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" Reginaldo Cormbenfi. Quibus, ilico, apertis oltiis, altan-"tibus dixit Contuarieus. Super his de quibus nos Do-"minus Rex convenit contulimus; et quia non habemus "ad præiens eos quibus res ipla migis innotuir, ideo uf-"que in crastinum petimus inducias, tunc responsuri ficut "Deus nobis inspiraveri". Datis igitur utcunque petid'is inducis ea die discesserunt ab invicem. Crastina au. "tem die, scilicer Dominica, usque in secundam feriam Archiepiscopus autem ea no-" dilatum est negotium. "ete iliaca passione dirissime vexatus lecto decubuit anxi-"atus: Mane autem facto ad Curiam accerfirur, & in ab-Gentem fævitur. Verum quia purabant aulici quod ægritudinem fingeret, mish sunt ad eum Comites duo, quos "lupra nominavimus : qui licet viderunt eum ex:ufabi-"lem, mandatum tamen Curiæ ægrotanti retulerunt. Ipcele autem usque mane sequentis dies petens inducias, "fatetur se venturum in Curiam etiamsi lectica estet defee rendus. Repuntiantions illis in palatio qua audierant "et viderant, lecreto intimatum est Archiepiscopo, quod afi in Curiam veniret, vel trucidaretur, vel in careerem etruderetur. Crastino semmo mine venerunt ad eum "Episcopi plures, suadentes ei, ut pacem Ecclesia et evid tandum tanti periculi scandalum, rigorem animi mitigad'rer, et Regis penitus se committeret arbitrio : adjicicentes; & quod nisi fieret sic, jam audiret in Curia Regis e Perjurii fibi crimen imponi, & tanquam Proditorem " JUDICANDUM; eo quod terreno Domino terrenum: "honorem non fervaret, cum avitas regni consuetudines, doblervaturum firmasser. Ad quas specialiter observandas, jusjurandi nova fe et alios altrixerat religione. At wille inquit; Fateor fratres inexcusabilis sum ante Deum « contra Deum prastans juramentum : Sed quia melius est " ad animum redire quam perire, legem legi Dei repuguantem " non admitto. Davic male juravit, sed panituit : Herodes ei juramento suo stetst, & periit. Ideo vobis pracipio, ut re-" spuates qua respuo, suffocantes ea qua sauctam suffocant "ecclesiam. Detestabile quidem est quod vos non solum me Solum deseruistis in certamine, sed et me qualemcunque Pa" trem vestrum jam per duos dies cum Aulicis judicastis, qui " [imul mecum stare deberetis. Quod ne fiat de casero, vobis in virtute obedientia probibeo, unde & matrem nostram Ro-" manam Ecclesiam appello. Quod fi ut rumor est in me vio. " lenta manus injecta fuerit, vobis itidem in virtute obedientia co pracipio, quatenus districta excommunicationis sententia ecci clesiasticas injurias vindiceris. Quod audiens Gilebertus " Londoniensis Episcopus, appellavic. Discesserunt igitur "Episcopi ad Curiam properantes. Archiepiscopus autem " in Ecclesiam ingressus, facris induris vestibus & pallio " redimitu; devotissime de Sancto Stephano millam cele-" bravir, officium inchoans : Etenim federunt, &c. non ut " alii dixerunt tanquim pro perlona sua Officium inchoaret, sed quia idem altare beato Stephano esset dedicatum " justic Archiepiscopus missam de martyre celebrari. Igi-" tur expleto ministerio amotoque ab humeris cum infula " pallio, cæteris indutus sacris vestibus cappa Clericali "fuper injecta, Curiam introivit, Intraturus autem ca-" meram quaRex & aulici iphus præstolabantur adventum, " de manu Clerici, Alexandri nomine, crucem accepit, " eamque manu propria portavit. Unde admirantes E-" piscopi qui eum prævenerant, affurgentes ei de manu ip-" sius quasi pro reverentia crucem accipere voluerunt, ne "iram regis crucem bajulando magis accendere vidererur. "Herefordensis sibi eam tradi petivit. Londoniensis vero " eam concupivit, dicens eum non debere contra regem "dominum fuum armatum incedere: Si viderit, inquiens, Rexte armatum intrare, gladium fuum incaput tu-" um exeret fortiorem & tunc videbis quid tibi proderunt "armatua. Hæc ait Canquariensis, Deo committimus. Et " Londoniensis: Stultus hactenus, inquit, fuifii, & ab hac " fulcitia ut video non recedis, hodie in te tua fatuitas sapparebit. Audiens autem Rex quod fic Cantuarien sis "Archiepiscopus armatus incederet, secessit citius in ca-"meram ulteriorem, sedente hac seorsum Cantuariens solo ce fere, cum suis admodum paucis, Episcopis loco & animo & sedentibus ex adverso. Rex autem multo stipatus ag. " mine cogitabat Archiepiscopum de clericis male tractan-

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dis primo petere. Sed ne Episcopi qui jam tolum re-"liquerant, pro Clericis pugnaturi ad eum redirent, fiereque ex confensu in regem conflictus acrior, ex confule ato aulicorum, Rex ad alias calumpnias se con errir. "VCCATIS igitur EPISCOPIS & PROCERIBUS. a gravem et igrandem Rex deponit querimoniam, quod " Archiepiscopus sic armatus in Curiain veniens, ipium et " suos omnes inaudira a seculis forma NÆVO NOTA-"VERIT PRODITORIS. Cum autem Rex inde jupra modum excandesceret, et universi fere igsius animum "ftimularent, abierunt retrorfinm etiam ipfius Archiepif-"copi adversarii, acfi jam in caput ejus vibratum viderent a gladium. Unde & in arto Pontifices politi, volvunt & "revolvunt quid agendum, qualiter hac fit necessitas evi. randa. Et randem ex communi confilio, Nos, inquiunt, "eum appellabimus coram Papa, de facili convincetur, " SINE REMEDIO DEPONETUR. Que cum plu-"cimum placerent Regi, exierunt omnes Epilcopi ad Can-" tuariensem; quorum unus cæceris eloquen ior & arroagantior, Hilarim scilicet Cicestrensis Episcopus, prorumd pens in vocem. Quandoque, air, noster fuisti Archiepiscopus, et tenebamur tibi obe lire; sed quia Domino regi fidelitatem jurasti, hoc est vitam, membra & terrenam dignitatem fibi per te falvam fore, et confnetudi. nes quas iple repetit confervandas, & tu niteris eas dedirnere, cum pracipue spectent ad terrenam sui dignictatem & honorem, ICCIRCO TE REUM PERJU-& RII DICIMUS, & perjuro Archiepisco de catero obedire non habemus. Nos itaque & nostra sub Domini & Papæ protectione ponentes, te ad ipfius præfentiam ap-" pellamus, super his responsurum. Audio, inquit Cantua-Griensis, quæ dicitis. Substraxerunt se itaque Episcopi ex d'adverso sedentes diutius in summo silentio. Rex autem d'interius cum Principibus sedens pro tribunali, Euntes "air, DISCERNITE QUID PERJURUS & CON-TUMAX PRODITOR DEBEAT SUSTINERE. & Itur, JUDICATUR. Et a quo vel qualiter pronuncid'andum effet JUDICIUM informatur. Processerunt Hh tandem d landem a Rege Comites & Barones cuin turba multz, " quorum primi & pracipni erant, Robe tus Leicestrie, & Reginaldus Comes Cornubia. Qui cum Archiepiscopo " quan improperantes retulissent, que et quanta ei bona "Dominus Rexcontuli let, tandem Comes Leicestria qui " erat dux verbi, cænit subriliger inflectere sermones, quafi " ao javicium Curiæ in Archfepiscopum proferendum. " Przientiens hoc Archiepticopus, mox non expectato ju. " dicio surgit, protestans, non elle eorum Archipræ u'em " suum judicare de crimine. Non est, inquir, in eum fe-" renda sententia qui judicem superiorem appellavir, eii. " am fi Laico liceret Episcopum judicare. Unde titi Co. " mes Leicestria, potetiate mihi a Deo collata ut filio Ec. « clesia pracicio ne in parrem cuum spiritualem fudicium o proferre prefumas Verum mox improperatum et inciamatum a nonnuliis ett, quod tanquam Perjurus et · Proditor a Curia discederer. Iple vero fic le vertens, et - austero vultu respiciens r. spondit; quod misi ordo 42-"cerdotalis obstarer, et si sibi fas esfet, in armis bellicis a "Perjurio & Proditione se contra ipsos defenderer. His "dictis a Curia discessie, et per aulam transiens probris "multis a Curialibus affectus eft. Cum autem jinuam " clausam repperisser, et janitor puero verberando inten-" differ, accurrens quispiam clavem repperit, januam ap-" peruit, patrem demifit, & fic pater patriæ manus im, i. " orum evant, &c.

(g) Gul. Nu- King (g) Richerd the 1. Anno 1189. going to the holy bigensis Re- Warrs, made William Longchamp Bishop of Ely, not only rum Angl. 1.4, his Chancellor and Chief Justice, but the chief Protestor and Hoveden, an. Guardian of the whole Realm; who having obtained a nal, pars pe- Legatine Power also from the Pope, and getting the Milisterior, p. 663- tia, with most of the Kings Castles into his hand, proved 680. to 735. a most unsufferable Tyrant to the Nobility, Gentry, Laity 151, to 161. and Clergy, to oppressing, domineering over their persons, Holinshed, Liberties Estates, imprisoning, taxing, dissersing, spoyling them p. 129, to 133.

Speed, p. 531. &c. Godwins Caral. of Bishops, p. 247. to 161, Fox Acts and Monuments, p. 214, 223, 224. Mat. Westm, anno 1191,

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of their Offices, Caltles, Lands, Privileges, Estates at his plea. Jure, and over-awing them with Troops of Horse, Garrisons & New Governors fet ever and quartered in every County, and with his great Guards of armed horse which he contiantly kept about his person, that Earl John the Kings brother, the Nobility, Prelates and People, being no longer able to indure his exorbitant infolency, incollerable Pride, Oppressions, Rapines, Exactions, and transcendent Tyranny, raised great forces against him, to regulate his Exceffes, and bring him to Justice. Whereupon he being fomewhat terrified in the 2. year of King Richard the 1. Anno 1191. Earl John, and the Bishops, with the Prelates, Earls, and Nobles of the Realm, attembled in a kind of Parliamentary Council, came to an agreement touching the future lettlement, reformation, Peace and Government of the Realm, and preventing all future tyranny and oppression; which was drawn up in writing, pullished, subscribed and sworn, to be inviolably observed both by the Earl John and Chancellor, and by 14. other Earls and Barons on either fide. One of the Articles of this Agreemert (recorded at large by (b) Roger de Hove (h) Annal. den) was this: Concession est, quod Episcopi & Abbates, Co-p. 700, 701. mites & Barones, Vavasores et liberi tenentes, non ad volunta- 702. tem Justiciarium vel Ministrorum Domini Regis, de terris & catallis fuis diffei fiemen, led fuotcio Curia domini Regis, lecundum legitimas consuetudines et Asisas Regni tradabuntur, bel per mandatum domini Regis: (agreeable to Magna Charta, c. 29.) No fooner had the Chancellor raken his Oath, but his forein forces he had privily fent for ariving in England, he presently violated it, and played the Tyrant worse than before, commanding the Kings own Brother Geoffry, Archbishop of York, to be apprehended at Dover in the very Church, dragged out violently in his Archiepiscopal robes from the Altar, and then thorough the dirty streets in the fight of all the people, who cried out after the Chancellors fervants, who thus abused him. (i) Oignavi! quare ita ducius illum (i) Hoveden quid mali fecit ? Archiepiscopus eft, & Regis filius, Regis - ris Hift. Angl. Hh 2

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que frater: But they taking no notice of their clamors, carryed him to Dover Castle. and there kept him Priloner, till he was thence released by Earl Johns command. The Archbishop coming to London complained to Earl John, the Bishops, and other Nobles of the injury done to him by the Chancellor: ut Cancellarius juri staret in CURI A RE. GIS super in uria illa, quam Archiepiscopo Eboracensi fece. rat, et Hugoni Dunelmensi Episcopo. Quod cum ipse Cancellarius facere de die in diem distulit, Eodem tempore ad instantium Comitis Johannis, Convenerunt apud pontem de Loedone inter Radingum & Wyndleshores, die Sabbashi proxime post fostum Santti Michaelis ad Colloquium MAG. NATES ANGLIA, de arduis & magnis Regis & regni negotiis trait aturi. The next day the Archbishop and Bi. shops who all came to this Parliamentary Assembly) meeting at Reading, excommunicated all those who were aiding and affenting to the imprisonment of the Archbithop: After which, Comes Johannis, & Archiepiscopus Rothomagenlie, & Episcopi & Principes Regni, statuern. t illi diem peremptorium apud Ridinges. Ad diem autem illum venerunt illuc COMES Moretonii, & fere omnes Episcopi & Comites & Barones Regni; Et post diem peremptorium moram fecerunt ibi expectantes adventum Cancellarii: sed ipse venire noluit, nec nuntium mittere. Deinde Comes Iohannes et Episcopi, & Barones qui cum eo erant paraverunt se Londoniasire, ut ibi in Majors audientia Londinensium fruerentur consilie, quid eis faciendum esset de Cancellario, qui sic conturbav:rat regnum & juri stare noluit. cellor hereupon flying from Windeshores into the Tower of London for shelter : Comes Johannes, & fere omnes Epifcopi, & Comites & BARONES Anglia, eadem die (scil. 3. die post octavas Sancti Michaelis) intraverunt Londonia: Et in crastino pradistus Johannis frater Regis, & Archiepiscopus Rothomagensis, & omnes Episcopi & Comites & Ba. rones (& cives Londinenses cum illis) convenerunt in airio Ecclesia Sancti Pauli : (where sitting together as in a Great Parliamentary Council and Court) post longos tractatus Ricardo regi fidelitatem juraverunt. Imprimis Comes ohannes ors,

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Johannis, deinde due Archiep [copi, et omnet Episcopi, o quetquot convenerum Comites & Barones. Deinde die Jovis proximo habitum est Colloquium in Orientali parte turris Londinenfis ; prafentibus MAGNATIBUS pradictis. Accufabant pradictum Cancellarium in multis, & pracipue in injuriis quas fecit Domino Eboracensi Archiepiscopo, & Domino Dunelmenti Episcopo. Socii autem pradicti Cancellarii, quos Rex asociaverat illi in regimine regni, accus bant eum in multis : dicentes, qued ipfe foretis illorum confiliis om . nia negotia regni cum impetu, & voluntaria dispositione faciebat. Archiepiscopus vero Rothomagensis, & Willielmus Marescallus Comes de Strogoil, oftenderunt coram populo literas Domini Regis sigillatas : per quas Dominus Rex manda. vit à Mettana, quod ipfi affociarentur Cancellario in regimine requi,ut e: Cancellarius fine illorum confil o & aliorum affignatorum nihil de negotio regis, ac regni tractaret, et ut pradictus Cancellarius, si ipfe quodounque in detrimentum Requis vel fine confil o pradictorum feciffet, deponeretur, et loco illius institueretur Rothomag nis Archieviscopus. Placun ergo I hanni fratri Regis. & omnibus Cpilcopis et Comitibus, et Baronibus Regni (as Judges) & croibus Londo itarum, (wnich Maithew Paris and others mention not, but only Hoveden, and that as auditors, 'peffators and approvers of their Sentence | quod Cancellarius ille Depo: neretur, et depoluerunt eum, & in loco illius instituerung Rothomagenicin Archiepiscopum, qui nibil operari voluit in regimine regni, nisi per voluntatem et affensum Sociorum suo rum affignatorum, & per Confilium Baronum Scaccarii. (k) Hugh de Nuvant Bishop of Coventry in his Epistle, de Dejectione Eliensis Episcopi Regis Cancellarii: Writes of him, (k) Hoveden that by reason of his incollerable Tyranny and Oppression: P. 703, 703, Per totam insulam a Laicis publice proclamatur : Perent qui perdere cunda fellinat : oppifmatur ne omnes oppifmat: and then thus relates the manner and grounds of his deprivation. Mane ergo habito Concilio cum omnibus fere Paguatibus Regnt, prasente Domino Johanne fraire Regis. & Rothomagenti & Eboracenti Archiepifco. pis Episcopis et prusentibus Duuelmeufi, Loudinensi, Wintonenfi,

Nota.

Herefordenfi, Menevenfi, Coventrenti, factoque Confilie coram omni popule totius Civit tit, prefen 1016 fufti ... its Domini Regis & approbantions, Confilio uniberfozum fa. tuttur, ne talis de catero in Regno Anglia domineiur, per quem Ecclosia Dei ad ignominiam, O populus ad inopiam e. rat redactus: ut enim catera omittam, ipfe et ganeones fui to. tum reg nam exhauser ans, nec viro balcheus, nec sæmine monile remansit, nec annulus nobili, nec quodisbat preciosum etiam alicui Judeo. Thefaurum quoque Regis exaninaverat pror. lus, ut in omnibus scriniis vel sacellis nibil prater claves de toto illo biennio posser inveniri. They likewise madehim take a folemn Oath to deliver up all the Kings Cattles to them, and to give pledges to perform it, and banished him the realm. Deinde pradicti fusticiarii et omnes Epif. copi et Comites & Barones Anglia in communi scripto manda. verunt Regi, qualiter Cancellarius sus regnum Anglia, & thefauros suos destruxerat, or qualiter iple per Commune

* Hoveden, p. 708.

(1) Rerum. Nub. igenfis subjoyns. "Tyranno igitur qui regnum tur-Anglicarum , co baverat, propulsaro EPISCOPI & OPTIMATES cum 1, 4. c. 18.

* Omnes

Magnates

" JOHANNE Londoniis congregati, de regni ordinatio-"ne tractare caperunt. Et primo quidem ab omnibus "Regis Richardi propter Christum pereginantis * fideli-"tate jurata, regni administrationem Rothomagensi Ar-"chiepiscopo DECRETO COMMUNI tradiderunt, "amotisque Ministris tyrannicis, provinciarum regimen Regni conve- "melius ordinari voluerant. Quibus actis, Anglia in num, & jura-" cunctis finibus fuis pacem recepir, & decenri fub novis verunt fideli-" capit rectoribus moderamine gubernari : malis plurimis tatem & filele 'c quæ sub tyranno pullulaverant, arque viguerant, pariter fervitium RI- cum ipio eliminatis, A happy Pub'ike change and Par-Regi Angliz, liamentary reformation worthy our imitation.

Concilium regni ejedus eft. To which 1) Gulielmus

& hæredi suo contra omnes homines, Roger de Hoveden, Annal, pars posterior, page 702,

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In the (m) year of our Lord 1193. Earl John contpi- (m) Roger de ring with the French King to deprive king Richard nis Hoveden, anbrother of his Crown, kingdom, and Dominions, feiling nat, pars pemany of his Caltles beyond the Sear, (proferring the En- 734, 739 perout great fur s of money no to release him, being then Mar. Wellm. his priloner,) and endeavouring to get possession of the Mar. Paris, an-Realm of England, Anno 1194. " Venit in Angliam no 1192, & c. Adam de Sin 30 Edmundo clericus et familiaris Comitis " Johannis, milius ab eo in Angliam cum liceris ad caltel-"la fua munienda contra fratrem fuum." Who coming to the lodging of Hubert Archbishop of Camerbury, and boalling much of the prosperity of his Lord, and what Cafiles the French King had delivered to him as he fate at dinner; to the great offence of the Archbishop and others; thereupon after dinner, Adam returning to his lodging in London, " Major Londoniarum injecit manus in erm. "& renuit; & ca; it omnia brevia fua, in quibus manda-"ta Comitis Johann is continebantur, & tradidir en Can-"turrienfi Archiepiscono. Qui in crastine convocatis "cozam eo Episcopis, Comitibus et Baronibus Regni, "Oftendit els meras Comitis 10h mas & caron tenerem. " & flatim per Commune Concilium Regnt Definitum "eff. quod Comes johannes dineitreur de omnibus te-"nementis fuis in Anglia; & ut Caltella fua o' fiderentur : "(for shis his Treafon) & factum est ita. Eodem die " Hubertus Cantuarientis Archiepiscopus, Hugo Lincol-"ni nis, Richarans Londonieniis, Gilbereus Roffeniis, "Godefridus Wintonientis, & Wigornientis & Herefor-"densis Episcopi, & Henricus Exoniensis electus, & Ab-"bates et Clerici multi Cantuariensis diœceleos conve-"nerunt in capella Monachorum infirmorum apud Welt-"monasterium, et sententiam anathematis tulerunt in "Comitem Johannem, et in omnes fautores ejus et confi-"liarios qui pacem et regnum Regis Angliæ turbavorunc "vel turbarent, mili relieta hostilitate ad satisfactionem "renirent." After which they appoin ed what persons "should besiege and reduce Earl Johns Castles, who vi-"goroufly executed their commands. King Richard foon

after being enlarged returning into England, fummoned a Great Parliamentary Council at Nottingham; the proceedings whereof against Earl John and others, are thus recorded by (b) Roger de Hoveden. "Tricelima die menis (n) Annal. " Martin feria quarta Richardus Rex Anglia celebravit pars policrior. optimem CONCILII SUI diem apud N. tingham; cui P.736:737. Seldens titles a interfuerunt, Alienor regina mater ejus, et Hubertus of Honor, par. " Cantuariensis Archiepiscopus, qui in dextris Regis se. 2. ch. 5. p.707. et debat in Concilio illo; et Gaufriaus Eboracenfis Archie. piscopus, qui a sinistris ejus sedebar, et Hngo Dunel-"mensis, et Augo Lincolniensis, et W llielmus Eliensisre. e gis Cancellariu, et Willielmus Hercfordenfis, & Henri. " cus Wigorniensis, et Henricus Exoniensis, et Johannes " Candida Casa Episcopi : Et Comes David frater Regis " Seotia, & Hamelinus Comes de Warenna, & Ranulfus " Comes Ceffrix, et Willielmus Comes de Ferreres, & " Willielmus Comes de Salisberia, & Rogerus Bigot. Eodem die Rez disseisivit Syrardum de Canvilla de Callel. " lo, & Vicecomitatu Lincolnienfi, et Hugonem Bardulf " de Vicecomitatu Eboracenfis sciria, et de Castello Ebo-

"Maii, Rex Anglia celebravit secundum diem Concilii (1) in quo ipte petiit sibi stert suotesum de Comste (1) Johanne fratte suo, quod contra indelitatem squam ci (1) Juravera: Castella sua occupaterat et terras suas transimarinas et cismarinas destituxerat, et seculus cum inimi (2) Guo Rege Francia contra eum inierat : Similiter & (2) de Hugone de Nunant Coventrensi Episcopo SIBI FIE—(2) RI JUDICIUM postulavit, qui secreti sui consciume—(2) um reliquerat, et Regi Francia et Comiti Johanni inio (2) micis suis adhæserat, ombe malum in persiciem regui (2) sui machinans. ET JUDICATUM EST, quod Co-(2) mes Johannes, et Episcopus Coventrensis citarentur, &

"raci et de Scardeburc, & de custodia de Westmerland

ci (for their disloyalty towards him) et omnia supradicta

dipoluit venditioni, &c. Tricelima prima die mensis

"finita quadraginta dies non venerint, nec juri steterint,
"JUDICAVERUNT COMITEM JOHANNEM DE"MERUISSE REGNUM, & Episcopum Coventrensem

subjacere.

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"Inbjicere judicio Episcoporum, in eo, quod ipte Epis-"copus erat, et JVDICIO LAICORVM in eo, quod ciple Vicecomes Regis extiterar. Secunda die mensis a Aprilis Sabbato celebravit diem quartum, & ultimum " Concilii fui, in quo omnes, tam Clerici quam Laici qui " volebant fibi corqueri de Archiepifc: Eboracenfi, secerunt " queremonias multas de rapinis et injustis exactionibus: . fed Archiepiscopus Eboracensis nullum eis dedit respon-"sum. Deinde per consilium et machinationem Cancel-" larii " ut dicitur) Girardus de Camvilla fuit retatus de "receptatione prædonum, qui rapuerunt bona Mercato-"rum euntium ad nundinas de Stanford: et ab eo recef-"terunt ad rapinam illam faciendam, et de rapina illa re-"dierunt ad eum. Præterea appellaverunt eum DE "LÆSIONE REGIÆ MAJESTATIS, in eo quod iple "ad vocationem Juititiarium Regis, venire noluit, nec " juri stare de prædicta receptatione raptorum; neque "eos ad justitiam regis producere: Sed respondit; Se " elle hominem Comicis Johannis, et velle in curia sua " juri flare. Præterea appellaverunt eum, quod ipfe fuir " in viec adjutorio cum Comite Johanne et aliis inimicis c. Regis ad Castella Regis de Notingham et de Tikehill ca-"pienda. Girardus vero de Camvilla negavit omnia quæ "objiciebantur ei ab illis, et illi dederunt vadium de pro-« sequendo, et Girardus dedit vadium defendendo se per "unum de liberis hominibus suis. " A clear evidence of the form of proceedings in our Parliamentary Councils in that age against Traytors and other, Offenders there im seached, accused in cuiminal causes, and of the Lords ancient undisputable right to give judgment therein, both in case of Peers (as Earl John, the Bishop of Chichester, and Atchbishop of Tork then were) and in case of Com. moners, Girard de Camvil (as I take it) being then no Peer or Baron of this Realm, but only a Servant to Earl John, though afterwards in (o) King Johns reign I finde (o) Hoveden

'n numbred amongst the Barons, who were Witnesses p. 811.

to homage and Oath of Allegiance made by William

King of Scots to King John. Earl (p) John foon af er co- (p) Mat. Paris ming p.169.

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ming to his Brother King Richard, call time of down at his feet, and with many tears, confessing his folly, ill counfel and practices against him craved his pardon; whereupon he received him into his favour, and presently restored his lands which he had sessent his hands as forfeited by the Parliaments sentence denounced against him for his treason.

(q) Mar, Paris The (q) Pope in the year 1208, having interdicted the Hist. Angl. p. whole Realm of England, King John thereupon fearing dens Titles of that he would likewise excommunicate him and absolve Honor, part. 2. his Nobles from their Allegiance to him; to preserve his 5.5. P. 797. royalties, sent a Company of armed Soldiers to all the Po-

tent Nobles of the Realm, and especially to those he suspected,

*See Clauf. exacting * Hostages from them, that so if they should after-7 H. 3. in. 8. wards be absolved from their allegiance, he might reduce them The Barons of odne obedience. Many submitted to the Kings commands, of Wales sum-and delivered some their Sons, others their Nephews, moned to purothers their Kinsmen for hostages to the Mel'engers. Who in their Sons at last coming to William de Branse a Noble man, and retor Hostages quiring pledges from him as they had done from others, to the King. to und a repulse. For Matilda his wife out of a womanish

quiring pledges from him as they had done from others, found a repulse. For Matilda his wise out of a womanish procacity, taking the word out of her husbands mouth, answered the Messengers: I will not deliver my children into the hands of your Lord King John, because he most dishonourably slew his Nephew Arthur, whom he ought to have honourably kept and preserved. Which her Husband hearing, rebuked her, taying; That she had spoken like one of the foolish women against our Lord the King; for if I have offended him in any thing, I am and will be ready to answer my Lord, and that without hostages, SECWNDUM JUDICIOM CURIA SUA ET BARONUM PARIUM MEORUM assignated die & loco. The Barons in that age being to be judged and tried only by their Peers, and that in the Kings Court of Parliament,

(r) Mar, Pa- for any offences against the King; not by the Commons or ris, p. 370. 371. any inferiour persons.

Mar. Westm. In the year of Christ 1233. (r) King Henry the 3. rean, 1233, 1234 moving most of his English great Officers and Councellors from at

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from his Court, and placing Poictorines and Aliens in their room, by whote Counte he was wholly fw yed & milguided (especially by Peter de Rivallis) equi homiunes Anglia narurales, & Pobiles totts biribus oppits " mebant , probitores cos bocabant , quos etiam be pro-" ditione apud Regem accusabant, inclaurorum ett-"am fuorum Rexeis cuitodias cum legibus patrit & judi-. ciis commisit. Quid plura? Judicia commituntur in-"justie, leges exlegibus, justicia injuriolis. Et cum NO-"BILES de regno, & in regno de oppressionibus sibi irro-"gatis; coram Rege caulam deponerent, Petro Episcopo · impediente, non tuit qui eis juliitiam exhiberet, &c. "Cumque his & confimilibus injuriis RICHARDUS "COMES, regni MARESCHALLUS, videret tam NO-"BILES quam ignobiles oporimere, & inra regni penirus " deponere, zelo julitiæ provocatus, allociatis fibi qui-" busdam Dagnatibus ad Regem, audader accessit, "increpans eum audientibus multis, quod per pravum " Confinem ad ocarat extraneos Pictaviente, no prefficonem r gni, & hominum suorum de regno naturalium, "LEGUM PARITER AC LIBERTATUM: Unde Re-"gem humiliter rogabat, ut tales excellus corrigere fe-"Hinarer, per quos Corona fux & regni fui subvertio im-"minebat. Affirmabat insuper, quod si hoc emendare "diffugerer, IPSE ET CÆTERI DE REGNO MAG-"NATES, tamdiu se ab ipsius consilio subtraherent, " quamdiu alienigenarum confortio frueretur: Ad hæc " autem respondens Perrus Wintoniensis Episcopus, dixie, "quod bene licuit Domino Regi extraneos quo cunque "vellet vocare ad defentionem Regni sui & Corona, & "etiam tot & tales, qui possent homines suos superbos & "rebelles ad debitum compellere famulatum. Comes vero Mareschallus, & cæseri MAGNATES persurbati "a Curia recedentes, cum aliud non porerant habere re-"fponfum, firmiter promiserunt ad invicem, quod pro "hac causa, quæ omnes tangebat, usque ad divisionem "corporis & anima, viriliter decer arent. After which the King with the Bishops advice filling all England with

Poictovines newly called over; and being wholly guard-

ed, counfelled, swayed by them, out of hatred and contempt to the English Nation: "Rex miss liveriss is,

"vocavit omnes de regno Comites et Barones ad col-

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" loquium , ne ventrem apud Oxoniam , ad tenum Sancti " journis, fed ipli nolucrunt ad ejus mandatum bent " re, tum proprer intidias attenigenarum, tum propier inaignationem quam conciperant adversus Regem, qui er extrant os ad eorundem Baronum vocavit contemptum. . Er cum hoc Regi per nancios folennes denunciallent, e irarus eft vehementer & judicialiter julgit diffinire quo "ozdine bebeat eog compellere ad fuam Curiam (the " Parliament) conbentre : Tunc Decretum eft per "jubici-"um, ut secundo et tertio vocentur a Rege, ut probet " n venire ve line, velnon. Significavit ergo Rex MAG-" NATIBUS memoratis, ut venirent apud Westmonaste-" rium quinto Idus Julii, AD COLLOQUIUM, & ibi " per corum confilium emendarer, quicquid de jure no-" verat corrigendum. Sed cum audiffent Magnates prædiai, quod paulatim applicuerunt in regno prædones " multi cum equis & armis a Rege invitati; cum nullum " pacis vidifient vettigium, suspectas habentes Pictaven-" fium innatas versutias, supersederunt ad diem sibi sta-"tutum venire; denunciantes Regi per nuncios folene nes, quateaus omni dilatione remota, Ejicerer Pet um "Wintoniensem Episcopum, & cateros Pictavenses de Cu-"ria sua: Sin aurem noller, ipsi omnes be communi " Concilio totius regni ipfum cum iniquis Confiliariis "fuis a regno depellerent, et de novo Rege creando "contradarent. His ita getiis, Rex animo contternatus " eit vehementer, et ejus Curia tora, vultum demitten-"tes, & non mediocriter metuentes, ne fiet error fili " patris errore deterior, quem homines sui de fanigio

regni deponere satagentes, ad illud nomen quod ei per quoddam præsagium datum est, scilicet 30hannes

" Ertoris, fere derruserunt : Tunc Petrus Epitcopus

"Contium Regi dedit, ut arma moveret contra rebel-

" les homines suos, & Castella eorum & terras Pistaven-

* Of the Lords who appeared. -ba

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"fibus conterret , qui regnum Anglia a fuis proditoribus "tuerentur. The King following his evil counsel, spoiled Gilbert Baffet a Nobleman of a Mannor given him by King John, and when he demanded reflicution of it, called him Traytor, and threatned to harg him unleffe he departed his Court; he also imprisoned Sir Ric. Sward and infeeding all the other Robles and Great men of the Realm, demanded holtages from them, louifying to them all by his Letters, that before the Calends of August they (hould prefent to him fo many and fuch hostages; wherewish they might remove all suspition of jealouse out of his mind. Cumque Comites at Barones Anglia in magno militia apparets Londonias tenderent, AD COLLOQUIUM Calend, Augusti fibi prafixum, the Earl Marshal being informed by his Silter Isabel, as he was going thither, that ther were ambushes laid to take him by his enemies, to prefent him to the King and Bishop of Winchester, who would imprison an I deal with him as they had done with Hubert Earl of Kent; he thereupon departed in the night and posted into Wales to avoid the danger. Venerunt "autem AD COLLOQUIUM prædictum, Comes Ceu fria, Comes Lincolnia, Comes de Ferrariis, & Comes " Richardus Frater Regie, cum aliis Comitibus & Baro-"nibue multis . fed nibil ibi adum fult propter abfenti-"am Comitis Pareschallt, et Bileberti Ballet, et quo-"rundam alfozum absentium Pagnatum (he Lords refusing to act, fir, or grant any thing to the king whiles the e eminent Members were absent, and their House no: full.) Unde Rex per Confilinm Episcopi Wintonien sis & Stephani de Segravetecit invitari per literas omnes de "regno Magnates, qui fibi ad militare fervitium rene-"bantur, ut venirent apud Gloverniam cum equis & ar-"mis die Dominica ante Assumptionem beatæ Maria, "Sed Richardus Mareschallis, & alii mulii qui fuerunt confaderati, cum venire noluisseut ad diem statutum, "fecit Rex, ac ff probitores effent, villas corum con-"cremari, parcos & vivaria eorum destruere, castella ob-"fidione vallare; the King outlawing them of Treason: Where-

Nota.

Whereupon there arole a War and many sairmithes between the Kings party and Poictovines, & the Earl Marthat and his Contederates for near two years space.

Anuo 1234. Rex Anglorum venit ad COLLOOUS Mar. Patis, UM apud Westmonasterium in Purificatione beata Marix, in quo quos dam Episcopos & maxime Alexandrum Ce-Areniem Epilcopum, graviter increpavit de nimia familia. r.tate Comitis Mareichalli, & quod ipfum a regni folio de. pellere nitebantur. Episcopus aurem ille, Pontificalibus indutu' cum ralia fibi objecta cognovisset, necnon quosdam qui Regi suggesserant exasperando; Episcopos foven. tes partes Mareschalli , velle alium Regem erigere, commotus est vehementer. Excommunicavit igitur in continenti omnes qui contra Regem iniquitatem hujusmodi sceleris cogitabant, vel super Episcopos, qui omnino de salute & honore regis solli. citabautur, malitiofe talia imponebant. Et fic manifeliara Episcoporum ac probata innocentia, confusis discordiz seminatoribus, siluit legista (Rogerus de Cantelu) ab anathemate ut videbatur, non immunis. Sic igitur intervenientibus Episcopis, qui aderant, pacificatus est Alexander Cestrensis Episcopus, & quievit spiritus illins nimis ante amaricarus. Affuit quidem hinc COLLO-QUIO Magister Admundus Cantuariensis Electus, cum multis Episcopis suffraganeis, qui omnes Regis, & Regni desolationi condolenter, venerun: ad Regem, & quali uno corde, animo et ore dixerunt : "Domine Rex, dici-" mus vobis in Domino, ut fideles vestri, quod consiliu n " quod nunc habetis, & quo utimini non est fanum nec " fecurum, fed crudele & periculofum vobis et regno An-" glia, Petri videlicet Wintoniensis Episcopi, & Petri de " Rivallis, & complicium suorum. Imprimis, quia gen-"tem Anglicanam odio habent & contemnunt, vocan-"tes eos proditores, & facientes omnes fic vocari, & " avertentes animum vestrum ab amore gentis vestra, & "corda nostra, & gentis vestræ a vobis; quod apparet "in Mareschalle, qui melior homo est terra vestra, " quem per mendacia interseminata a vobis elongantes e perverterunt. Et per hoc idem consilium, scilicet per " dictum of prin a lias "Do · Per

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e dictum Episcopum, amist Pater vester Rex Johannes, o primo corda gentis sua, deinde Normanniam, post a-"lias terras, & in fine totum thefaurum exhaufit, & fere "Dominium Anglie, & nunquam poltes pacem habuit. · Per idem confilium temporibus nottris, turbatum fuic "regnum, & venit interdictum; et denique factum elt regnum tributarium, et princeps provinciarum factus celt, proh dolor ignobilibus sub tributo, et inita guerra et diu protelara, mortuus elt pater vester quasi extorris, " nec in pace regni vel animi, et he mortem per co:ad-"modum ircurrit periculofam. Per idem confilium "contra vos detentum fuit Castellum de Bedeford, ubi "multum thefaurum, et strenuos homines perdiditi: ob quam causam interim Rupeliam in ignominiam to-"trus regni tui amiliti. Item perturbatio nune immiunens toti regno periculofa, per eorum confilium iniequum accidit, quia si per judiciam et restum judici-"um terræ træctati fuissent, homines vestri, non eveni et "ifta i ercurbatio, et haberetis terras veltras non deltru-"ctas, et thefaurum inexhauflum. Item in fide dicimus, "qua vobis aftringimur obligari, quod confilium vestrum "non est pacis, sed percurbationis terra, quia sic creice-"re volunt, qui per pacem non possunt, scilicet per reg-"ni perturbationem, et aliorum exharedationem. Item, "quia Caffra veffra, et fortitudinem veffram habent in "manu sua, quasiede gente vestra diffidere debeatis. I-"tem quia Scaccarium vestrum, et omnes custo :ias et elchaeras maximas habent in potestate fua, placer talis "expectatio, et quomodo vobis respondebunt in fine, " ut credimus comprobabis. Item, quia nifi per figillum " restrum, vel præceptum fine figillo Petri de Rivallis, "vix aliquod magnum negotium fit in regno, quali wos pro Rege non haberent. Item, per idem confilium na-"turales homines de regno vestro de curia vestra expulsi " funt : unde timendum est tam de vobis quam de regno, ci cum videamini magis elle in corum potestate, quam "iph in vestra sicut per plurima constat exempla. Item, "quia puellam de Britannia, et sororem vestram habent

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"in potellare, et alias plures puellas nobiles, et alias mu-"lieres nubiles, cum wardis et maritagiis quas dant fuis, et difparaban. Irem, quia legem terræ furatam et "confirmatam; atque per excommunicationem corrobogatam, pariter et juftitiam confundunt et perber. tunt, une timendum ett, ne fint excommunicati, & "vos eis communicando. Item, quia non observant alte "cui promissionem, fidem, vel juramentum, vel scriptu-"ræ munimentum, nec timent excommunicationem. Un-"de qui a veritate recessetunt, sunt desperati, ut qui in "timore remanent diffidentes. Hæe autem fideliter vobis dicimus, et coram Deo et hominibus consulimus rogamus et monemus, ut tale confilium amoveatis a vobis, et sicur est in aliis regnis consuetudo, regnum vestrum tracteris per fideles homines veltros et intatos de regno veltro. Denunciamus enim vobis in veritate, quod nifi infra breve tempus ista correxeritis, in vos, & in connes alios contradictores , per censuram ecclesiasticam proceden w, nibil nifi confectationem venerabilis Patris nostri electi Cantuarienfis expectantes. Et his ita dictis, Rex humiliter postulavit inducias, dicens, fe non posse ita subito consilium fuum amovere, donec de thefauro (no illis commisso, ratiocinium andiffet. Et sic solutum est COLLOQUIUM, recedentibus cunclis cum fiducia concordia celeriter ob ipenda.

P. 383.

(s) Mat. Paris . (s) On the 5 of April following, Convenerunt ad COL. LOQUIU M apud Westmonast. REX CUM COMMITI-BUSET BARONIBUS, & Archiepifcopus nuper confecratus , cum (nis suffragancis , ut regno perturbato falubattet probioerent . Archiep: [copus quidim conjunctis fibi Episcopis, ac cateris qui aderant Pralatis, oftendit ei confilium fuum & Episcoporum , super desolatione regni , & periculo imminenti, replicando suprascripta incommoda, in COL. LOQUIO superius habito fibi expressa. Denunciavit etiam ipfi ex preffe, quod nificelerius errorem dimitteret, & cum fidelibus regni [ui pacifice companent , ipfe in continenti cum omnibus qui aderant Pralatis, IN IRSUM REGEM SEN-TENTIAM FERRET EXCOMMUNICATIONIS O'I omines mu-

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omnes alias bujus pacis contradictores, et concordia perverfores. " Rex autem pius audiens consilium Prælatorum, humili-"ter respondit, quod confiliis e orum in omnibus obcem-" peraret: unde post dies paucos, intelligens proprium "errorem, romitentia ductus, pracepit Petro Wintonie enfi Episcopo, ut pergens ad Episcopatum suum, curis « intenderet animarum, et de cateris Regiis negotiis ne-"quaquam interesset. Petro etiam de Rivallis immuta. a biliter justit, cujus Anglia tota dispensationibus subjacebar, ut redditis sibi Castellis suis, & ratiocinium de "thelauris in continenti redderet, et a Curia recederet: "affirmans cum juramento, quod nisi beneficiatus et in "fortem clericorum esfer admissus tple et ambos oculos "etuere faceret. Pictavienses insuper omnes cam de Cueria lua, quam de castrorum presidiis expellens, remisic "in patriem fuam, præcipiens ut ultra faciem fuam non "viderent. Et sic Rex dimissis iniquis Consiliariis suis, "revocavit ad obsegnium suum naturales homines de reg. " no fuo, subjiciens se consilio Archiepiscopi et Episcopo-"rum, per quos sperabat regnum perturbatum, ad statum " prosperum revocare." Soon after the King (as appears by Clauf. 18 H. 3. m. 19.) by the advice and judgement of the Archbishops, Bishops, Earls, Barons, and other his Great men in the Parl. at Gloucester, reversed and nulled all the Outlawries against Hubert Earl of Kent, Ralph Baffet, and other adherents to the Earl Marshal, eo quod injuste, et contra legem terra in eos fuerant promulgata, (which he caused the Sherifs publikely to proclame;) recalled Hugh de Bur go Earl of Kent, Gilbert Baffet, Sc Richard Sward, whom he had formerly banished, imprisoned, injured, "cum omnibus qui cum eis, et pro eis in exilium "fuerunt pulfi ; in gratiam fuam plenam et non fictam re-"vocavit, et eis in osculo pacis receptis reddidit om-"nia jura sua, IN COLLOQVIO 5to Calend Junii; admitting (in this Parliament) the laid Hubert , Gilbert , and Sward, to be his domestick servants and familiar counfellors: "runc demum intelligens, quod primum fuerat " seductus astutia confiliator". In the mean time R.E. Mar-(hal

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that being creacheroully itain in Ireland, by a Lecter tent hence from the Kings ill Counfellors under the Kings Seal ; hereupon , " in cobem Colloquio, Admundus " Cant. Archiepiscopus fecit recitari exemplat irerarum, " de proditione Richardo Comiti præparata cozam Reac "et unverso Conventu Episcopozum, Comitum pariter "ac Baronum qui affuerunt, que a Confinaries regis " millæ fuerunt ad Magnates in Hibernia. Unde Rex ip. " se et alii omnes qui eas audierant, admodum sunt con-"Aricli, & ulque ad lachtymarum compuncti sunt effusionem. Rex autem confessus est in veritate, quod com-" pulsus ab Episcopo Winteniensi et Petro de Rivallis & aliis . Confiliariis suis, justit sigillum suum apponi in quibus-"dam literis fibi præsentatis, sed tenorem eorum se nun-"quam audifle cum juramento affirmavit. Ad hoc re-" sponium Archiepiscopus dixit, Scrutamini Rex conscien-"tiam vestrem, quia omnes illi qui literas illas mitti procurae verunt, et hujus proditionis conscii fuerunt, rei sunt de morte Marescalli, ac si illum propriis manibus occidissent. Tunc "Rex, HABITO CONSILIO, fecit vocari per literas " Episcopum Wintoniensem, Petrum de Rivallis, Stephanum ce de Segrave, et Robertum de Passeleve, ut venirent ad fe-" stum Sancti Johannis , ratiocinium reddituri de thesauris « suis receptis pariter & expensis, sed et de sigillo suo quodma-"le tractaverant, ipso penitus ignorante, mandavit ut tunc ve-"nirent RESPONSURI ET JURI PARITURI. illi proprias conscientias habentes suspectas in omnibus, "ex una parte Regem, ex altera fratres et amicos metue-. bant Marescalli, cujus necem procurasse videbantur. "Unde ad pacem Ecclesiæ confugients, Episcopus et Pe-" trus de Rivallis in Ecclesia Cathedrali apud Wintonians "latirabant, a conspectu hominum sese penitus subtra-"hentes. Stephanus vero de Segrave in Ecclesia Sancta Maria in Abbatia Canonicorum apud Legecestriam " delituit, et qui rrins a clericatuad militiam per arro-" gantiam confugerat, ad clericatus officium reversus, co-"ronam quam reliquerat, inconsulto Episcopo revocavit. « Robertus quoque Passelene ad latibulum divertit incognitum

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"micum, &c. Sed revera ad Novum cemplum, te infir-"mum fimulans, in quodam fecreto celatus cellario la. "titabat, more tectus leporino. Tandem Admindus "Cant. Epilcopus, impetravit a Rege, ut sub salvo con-"· ductu ipfius et Episcoporum poliunt ad diem certum co. "ram illo venire, ut omnis in regno diffentionis occasio "lopiretur. Statuit igitur illis diem Rex pridie Idus "Julii apud Westmonasterium, ubi sub procectione Archi-"epilcopi et Epilcoporum ad Regis præsentiam sunt pro-"ducti. Petrus de Rivallis primus in caulam vocatu", "apparuit coram Rege in habitu clericali, cum tonfura et " lara corona, Regemque reverenter salutavit cum 3u: "Aiciarlis fuis in Banco sedentem. Quam Rex torvo "respiciens oculo, O PRODITOR inquit, per iniquam " consilium tuum, sigillum meum ignorans apposui literis de " proditione Comitis Mareschalli. Per tuum etiam pravum "consilium, ip(um et alios de regno meo komines naturales et " eorum animos à me pariter, & amorem averti. Per pra-" vum etiam consilium tuum et complicum tuorum, querrans " contra illos movi, in jacturam irrestauribilem, et regni op. " probrium, per quam guerram thefaurum meum et vitam "multorum illustrium, simul et honorem meum amisi lamen-"tabiliter. Exigit igitur Rex praterea ratiocinium de thefau-"ro suo et custodia puerorum nobilium et escheatarum cum " aliis proventibus multis, qua ad Coronam spect abant. Cum-"que hac et alia multa Rex ab eo sub proditionis nomine "exigisset; nihil omnino de objectis sibi criminibus ne-"gavit, sed coram Rege in terram corruens, per hac ver-"ba ejus misericordiam imploravit. Domine Rex, in-"quit, nutritus sum à vobis et in bonis temporalibus dives "factus; ne confundes hominem quem creasti, sed concede d saltem tempus deliberandi, ut de rebus exactis, competenter "vobis valeam reddere rationem. Cui Rex: Mittam te iu "Turrim Londinensem ut ibi deliberes donec mihi satisfacias " pravia ratione. Ad hac Petrus, Domine, Clericus sum, "nec debeo incarcerari, vel sub Laicorum custodia deputari. "Respondit Rex: Te ut laicum hactenus gessisti, à te agid'tur ut Laico, cui meum commist the saurum, exigo. Ve-Kk2

" runtamen ecce profens eft Archiepiscopus, qui si pro te fi-" dejubere voluerit; tradam te illi, ut mibi atisfaciat de et exactionibus supradictis. Ad quod cum filuiffet Archie. " piscopus, misit Rex pradictum Petrum in Turrim memocc ratam, accipiens in manus suas omnes laicas possessiones eet jus, quia sub habitu clericali laica erat indutus, gestans ane: eclacium ad lumbare, quod clericum non decebat. Et tunc " Petrus flevit amare, scilicet ingrediens naviculum, du. "cendus ad turrim supradictam. Fuit autem in ea die "Jovis, et sequenti die Veneris. Et tunc ab Archiepis-"copo liberatus, apud Winteniam perductus eft, et in ec-

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" clesia di nissus cathedrali.

"Apparuit autem cadem die in Regis præsentia Stepha. et phanus de Segrave, veniens sub protectione Archiepisco-" pi, de rebus sibi impositis responsurus. Qui cum staret "injudicio Juri pariturus; increpavit eum Rex sub noes mine nequissimi proditoris, de domnibus articulis de quibus " increpave sat Petrum de Rivallis; hoc etiam adjiciens, " quod confilium deder at es, ut Hubertum de Burgo ab offci cio Insticiarii amoveret, incarceraret, patibulo suspende-" ret, & Nobiles de regno exilio relegaret. Cumque hac " & alia multa ei imposuisset flagitia, exegit ab eo ratioci-"um de officio Insticiarii, quod sub eo ministraverat post Hu-"bertum de Burgo, de rebus receptis pariter et expensis. "Super his autem Archiepilcopus et Episcopi impetra-"verunt inducias a Rege usque ad festum S. Michaelis, ut " deliberandi tempus haberet. De pravis quoque confi-"liis sibi imputatis, alios altiores eo, medios scilicet inter Regem et eum quibus necesse habuit immediate respon-. dere, utpote Walter um Carleolen fem & Petrum de Rivala " lis non me redarguat. Et sic de aliis umbonem saciens " recessit, in alios crimen retorquendo. Et sic ablcondit " se iterum Roberius Passelene. The King made Hugh de Pateshuile, an honest and faithfull man chief Justice of England, much against his will, in Paffelenes place. And at the Archbishops request, in the same Parliament, restcred to Gilbert, Brother and heir to murdered Richard Earl Maxibal, all his inheritance both in England and Irelands received received his homage, knighted, and gave him the rod of his Marshals Court, as the manner is, to hold that office as well and freely as his ancestors enjoyed it. And so this Civil warr and Combustion between the King and his

Nobles was fully reconciled.

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I have transcribed this History, and these Parliamentary proceedings at large out of Matthew Paris. First, to manifest the Gallantry, Courage, Zeal, Vigilancy, Unanimity of our Nobles, Lords, Barons, and Prelates in that age, in opposing, reprehending the King himself to his face, and threatning to depose and excommunicate him, both in and out of Parliament, for entertaining foreigners and ill counsellors about him; neglecting, hating, banishing his own Nobles and natural Subjects as Traytors, without any just cause or legal trial, and subverting, consounding their Lawes, Liberties, Jultice, &c. 2ly, To manifelt the proceedings, impeachments in these Parliaments against the Earls and Nobles refusing to appear at these Parliaments upon the Kings three successive Writs of Summons; his outlawing them of high Treason, and spoiling, burning, seising their houses, Lands thereupon, being adjudged by the Lords in Parliament, to be illegal and afterwards reversed as unjust and against the Law, Claus. 18 3ly, To manifest, that the Lords in Parlia-H. 3. m. 19. ment would not act any thing in the absence of these eminent Lords refusing to appear. 4ly, To evidence the Sentence and Justice of the King and Lords, against these ill Counsellors, Aliens and Traytors to the Publique, whom they caused to be removed from the King, Court, King. dom, put from their publike Trusts and Offices, called to an account, publikely arraigned before the King himself and his Justices; by whom they were imprisoned, their lands conficated, and better Counsellors of State and Judges put into their places.

*Anno 1240. Accusatus est graviter Comes Cantia Mat. West, Hubertus de Burgo COR AM REGE ET CURIA p. 153i TOTA London: ubi post multas disceptationes, ut ira"cundia Regis, qua immoderate nimis contra ipsum

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excanduerat, quielceret, ADJUDICATUM EST, ut quatuor Castra sua Chariffima (Icilicet Blancum Castrum, Grosmunt, Scenefrishz, & Haetfeild) Domino Regi resigna. ret, ut catera sibi cum Regis benevolentia in pace remanevent.

(x) Mar. Paris p. 938.

(x) Anno 1258. The Nobles complained in Parlia. mnnt of the Kings advancing his half Brothers, who were aliens, swaying all things, and impoverishing the Realm, and of their intollerable pride, infolency, and

P. 940, 241. Mar. Westm. P. 277.278.

injuries; and the Earl of Leicester particularly complained to the Parliament of William de Valentia; non tamen Regi sed universitati pracordialiter est conquestus, exigens in-(y) Mat. Paris stanter sibi justitiam adhiberi. The (y) same year the Great men and Nobles of the Land, Videntes Regnum undique deselatum, tum exactionibus & tallagiis tam Curie Romana quam Regis, quam etiam alienigenarum, & pracipue Pictavensium elatione prasumptuosa, favore regio in regno nimium in sublimi provecta, tantas in Anglia Dominationes sibi usurpantium & magisteria, rost Pentecosten apud Oxon. COLLOQUIUM GENERALE CELEBRAVE-RUNT (being summoned to this Parliament by the Kings Writ) super hiis, necnon & status regni melioratione efficaciter & exquisite trastaturi. Quo non fine armis & equis ele-Etissimis muniti venerunt , ut si Rex & alienigena suis provisionibus, & statutis fonte contemnerent affentire, rigore op. posico cogerentur, aut ipsi alienigeni universaliter, sine mora regnum Anglia pointus evacuarent, Quas quidem provisiones Oxon. & Stat. necnon ET MAGNAM CHARTAM TAM DE LIBERTATIBUS ET DE FORESTA; tandem Domino Rege ad suorum PROCERUM observantiam statutorum inclinato, per que dam de suis militibus tactis sacrosan-Etis jurametum prastante, 24 prudentium virorum & Nationis Anglicana, quos ad Regni gubernationem sub eodem duxerint inter se eligendos, consilso se commendavir & considerationi. His igitur p. rattis fidelitatem Regi & regnt ET AD CON-SIDERATIONEM SUORUM PARIUM STARE omnes, quotquot in regno commorare vellent, fecerunt jurare The Nobles in this Parliament required, that all the Poictorines 382

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vines might furrender up all the Castles they held in Eugland into the Kings hands; Whereupon they peremptotily (wore by the passion and wounds of Christ, that they would never doe is whiles they breathed. Whereupon the Earl of Leicestersaid to William of Vairencia, the most insolent of them all, That he should either surrender up the Castles be held of the Kings, w. thout delay , VEL CAPUT AMITTE. RET, or he should lofe his head. Similizer ALII CO-MITES ET BARONES DICEBANI etiam confructiftime affertione confistentes. The Poictovines being very much terrified with thele words; not knowing what to doe, and fearing to fly to any Castle, lest they should there be belieged and foon taken or starved by the Lords, fled secretly and speedily from the Parliament to Winchefter; not sparing their horses sides, and setting spies upon hills and Towers to observe whether the Barons purfued them; who hearing of their flight, commanding all their followers to arm themselves, and dissolving the Parliament, without adjourning it to any certain day, (z) purfued them to Winchester; where the King and Nobles holding another PARLIAMENT, the Poicto- (z) Walling. vines JUDIDIUM EXPECTARE NOLENTES, nec ham Ypodig. aus exhibitionem JUSTITIA, que singulis secundum jura- Neustria, An. mentum REGIS & PROCERUM debebatur expestare (be- 1258. p. 61, ing the fole judges of them in Parliam. for their exorbi- p. 278. tant offences) they presently fled out of the Realm be- Mar. Paris, p. yond the Sea, to avoid their sentence. Hereupon 212. "(a) Significatum est literatorie, ad multos etiam quos (a) Mar. Paris "prædicti Pictavienles impudentur offenderant; ur que- P. 945.

"relam super hoc reponentes. Ostenderent Paguatibus." Regni damna sibi a distis Regis tratribus illata, & "eas querelas dilucidantes, continter moras iequeren "tur, & ut sibi omnia, secundum quod jus distaret rescribicuerentur. Sed quia instadat tempus messium, conscribderantes simultatem, et instantes labores forte inutiles
scriptionerent donec majorem cernerent opportunitascription. The Lords in Parliament being willing to award them damages and reparations against the Kings own
Bro-

Brothers in Law, upon complaint and clear proof of the

injuries and damages they fullained by them.

Ax 1260. There falling out a great difference be-Mar. Weltm. Anno 1260,p. tween King Henry the 3. and Prince Edward his Son: Simon Earl of Leicester and other Nobles; thereupon, 295, 296, "Convocato in præsentia Regis apud sanctum Paulum, "BARONAGIO, habitoque prins trastatu de Eadwar-" do super injuriis Regi (ur dicebatur) illatis; paratus " est idem Eadwardus, le omnium objectorum probate "immunem, et ad duorum Regum, scil. Patris sui, et " Avunculi, provisionem in emendatione facienda se dare "tractabilem : diceps, Omnes alfos Barones, et "Comites fibi De fure non elle Pares, nec fuas in cum erercere offcufsiones, Unde difcuita hinc inde verita-"te, omniumque relatorum falfirate probata, pacificato Regi concordatus est filius, multiplicatis de jure ini-"micorum confinsonibus. Concordato itaque Endwardo Regiet Regina, et aliis amicis, mox querela subsequi-" tur de Comire Leicestria Simone, super pluribus injuriis " tam citra mare quam ultra, contra Regem (ut diceba-"tur) perpetratis. Præfixo igitur die ad respondendum, "& se de objectis expurgandum, idem Comes ad dictum "diem, licet breviorem, paratus est quantotiens petitis " latisfacere, et ad discutiendam super oppositis veritace tem, omnium transmarinorum quam cismarinorum, ar-" bitrio obtemperare, exceptis quinque tantum minutis, of tam suæ quam Eadwards, discordia seminatoribus. Quo " audito Comes Glovernia cum suis consentaneis, rimens

> "se suscitati querelas, USQUE AD ALIUD PARIJA-"MENTUM præfatum diem procuravit prorogandum, "Unde tumultu ad tempus sedato, Rex proprium adivit "Palatium cum gaudio. Articuli vero prætactarum cul-" parum cum fuis fabricatoribus plures funt, & ultra mo-"dum transgreffibiles, fi veri estent. Sed quia incredi-

> "sibi post prædicti Comitis purgationem, gravissimas de

" biles funt, & nulla fulciuntur veritate, ne mendaciorum scriptor dicerer, aut fabricator, eos huic pagina non se arbitror annotari. Jmo qui eos sitienter audire desi-

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Anno 1261. Prince Edward returning out of France , Mir. Welt. brought W.lliam de Valentia the Kings Brother-in-law p. 306, to with him, lately banished out of the land, who coul 318. Mar. Par. then featce obtain any admission into it, but upon this p. 938,939, conditior, "Ut prættito in ingressu sacramento BARO- 940, &c. "NUM PROVISIONI IN OMNIBUS OBEDIRET, & ingulis contra eum depolitis quarelis et deponendis, eli necede fuerit, responderet. Eadwardus vero super e vanis Regis confiliis, & confiliariis edoctus, eifdem a valde iracus, sponte se patris abientavir obtutibus, & c'hdeliter ut perjuraverat, affenfit Baronibus. Inquifid' tis itaque diligenter prædictæ contentioni; fautoribu; e et cognitis, unanimiter omnes cum Eadwardo conjudrarunt, quod nunquam regi confentirent in uno, doe nec quoidam non nominandos a fuo amoverer confilio. Addentes guod per talium pacis perturbatorum fuggec. hiones Rex impe decipitur, & in prætacta papali abloclutions juramentifui (to observe the provisions of the " Barons made at Oxford.) provino Regi & regno falutac ris infirmatur. Unie tevelato corum fecreto, nuuquam Rex, talium confilio intermediante, suo poterit "HARONAGIO prout dicet confintire. Comises anwtem Glovernia et Leicestria, pace funt turc firmilu fima confæderati fimul cum Eadwardo & aliis, con-"teftantes, quod aut prædictorum perturbatorum a'rege a removerent conforrium, ant guerra viciniore fufcitanda alterutros le darent in interitum. In pursuance whereof the Barons continued in arms fo long, till they forced the Kings ill Counfellors from him, constrained him to reconfirm and affent to their provisions made at Oxford, to banish all strangers out of the Realm, and to put all his Caftles into their hands.

Anno 1264. Richard King of Romans, Prince Edward Mit. Westim, the Kings eldeit Son, creerique BARONES OMNES ET Paris p. 962, NOBILES pradictoregi Anglix constanter sincera sidei & 963.

devotionis operibus adharentes , in their memorable Letter

'b) Mar.

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and answer immediately before the battle of Lewes, Si. moni de Monte forti, Gilberto de Clara, caterisque univerfis & fingulis perfidia (na complicibus; who accused them of giving neither good nor faithfull Counsel to the King, in their Letter then fent to them, write thus, in order to a legal trial in the Kings Court of Parliament by their De hoc autem quod falso nobis imponicis, quod nec fidele, nec bonum consilium regi Domino vestro dimus, ne. quaquam verum dicitis. Et si vos, domine Simon de Monte forci, vel Gileberce de Clara, velitis hoc idem IN (URIA DOMINI REGIS ASSERERE, parati jumus securum veniendi ad dictam CURIAM procurare conductum, & nostra super hoc innocentia veritatem, & vestrum scut PER-FIDORUM PRODITORUM mendacium declarare per ALIOS (milprinted in some Copies alium NOBILI. TATE ETGENERE VOBIS PARES (not parem) relating to that of Magna Charta, c. 29. Per legale judicium PARIUM SUORUM, by which Peers only are legally triable.

In the year of our Lord 1265, being the 49 year of

Henry the 3 his reign, the Earl of Leicester, Simon de Montefort, and fundry other of the Barons being flain, and the rest of them to ally routed in the Battel of Eve-(ham by (b) Prince Edward; thereupon the King being re-1265, p. 340, scued out of their hands, and reflored to his royal autho-Mat. Paris, p. rity, fummoned a Parliament at Winchester on the Nati-967. Walfing-vity of the bleffed Virgin. In which Parliament, REX. ET REGNI MAGNATES ORDINARUNT (as Neustriæ, An. 1265. See Ho- Mat. Westminster relates) quod ditiores Civitatis Londinenlinshed, Fabi- sis, in carcerem truderentur; quod Cives & Civitas Londi. an, Daniel, nensis (Nota) suis antiquis Privilegiis & libertatibus pri-Speed, Graf- varetur OB SU AM REBELLIONEM: & quod ftipites H. 3. Hen. de & cathenas quibus Civaas fuerat roborata, de medio tollerenton, An. 49 Knighton de tur, PRO EO QUOD Simoni de Montiforti, Comiti Leicestria IN REGIS CONTEMPTUM, ET ETIAM Eventibus: DAMNUM REGNI FORTITER ADHÆSE. RANT. Capitanci etiam factionis contra Regem , juxta voluntatem ejus pl. Etendi, carcere manciparentur. Quod & to.

tum factum est. Nam & potentiores Civitatis, apud Ca-

frum a

Strum Windesoram Carceri fuerunt mancipati, qui postmodo pæna pecuniaria, ad summam non modicam mulitabantur. Libertas fuit civibus interdicta, & Turris London per stipices & Cathenas Civitatis fortier facta Post boc apud Westmonalterium in festo Translationis Sancli Edwardi, there was another Parliament held at London furmoned by this

Will yet extant on Record.

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(c) Henricus Dei gratia Rex Anglia, &c. Cum post gravia turbationum discrimina dudum habita in regno nostro, (c) Dorso Cariffimus filius Edwardus primogenitus noster, pro pa-Clauf, 49. H. ce in regno nostro assecurenda, etfirmanda obses tradicus?. m. 11. in extitisset, et jam sedata (Benedictus Deus) turbatione Schedula. Selprædicta, super deliberatione ejusdem salubriter provi-Honour, p. denda, et plena securitate et tranquillitate pacis, ad ho-717,718, notem Dei, & utilitatem totius regni noltri firmanda, et totaliter complende, ac super quiousdam aliis regni nostri pego us qua fine Confilio bestro et aliozum Parlatorum et Magnatum noltrozum nolumus expediti, cum tildem tradatum nos habere opoztet; Vobis mangamus roganies in fide et disectione, quit u: Nobis tenemini, quod omni occasione poliposita. & negotiis aliis prætertermiffi: ad Nos Londoniis. &c. Poblicum et cum Padls tis Palatis et Pagnatibus nouris, quos ibid. v. c titecimus fut er pamittis ittis tracia vri et Confil,impenfurf. Et hoc heur, Nos et honorem nolfrum ac vehrum necnon et communem regni nostri tranquillitatem diligitis, nullatenus omittatis. The Teste of this Writ to the Bishops, bears date of Winchester (where the former Parliament was held) Decemb. 14. the Writs to the temporal Lords. (d) Seldens.
Abbots and Peers bear date at Woodstock the 24 of this Titles of H Month; there being no leffe than 64 Abbots, 36 Priors, nour p. 72 the Master of the Temple, and 4 Dears of Cathedral 724. Churches summoned thereunto, besides Knights and Burgeffes now first summoned to that Parliament to fet. (e) Parent. tle peace, most of them being VOLUNTARIE SUM- 16 E. 3. part. MONITI, and not bound of right to come, not holding Titles of Ho. of the King by Batony. In this Parl. by judgement nour, p. 724. of the King and Lords SENTENTIA EXH ERE-73A. DATIONIS IN REGIS ADVERSARIOS FEREBA-

'TUR; & omnes qui contra Regem cum Comite Simoni Steterunt; exhareditabantur, quoram terras Rex suis fideli. bus tradidit fine mora, pensatis meritis singulorum. Execution of this Sentence appears in the Patent Roll of 50 H. 3.m. 10. Schedula. Where the Lands and Manors of Simon de Mo tfort and other Rebels a hering to him against the King, are confiscated to the King, and granted by him to surdry others there mentioned; as the Lands of the Barons adhering to King Lewis against King John their native Soveraign, were in like manner for eited to and granted by him, Clauf. 17 Johan. Regis, dorf. 7, 10, 11. By these two last Parliamentary presidents and proceedings against the Londoners, Simon Montfort, the Barons, and a l other his Confederates whether Peers or Commoners in cale of Treason and Rebellion against the King, to the forfeiting of their antient Cultoms and Liberties, impriloning and fining of their perions confication of their goods difinheriting them of their Lands and Freeholds, by judge ment and Sentence of the King and Lords, it is undeniable, that the King and Lords have an antient undoubted right to judge and censure both Peers and Commoners too in Parliament, in cases of Treason and other misde. meanours there properly triable.

In the year (f) 1266. King Henry the 3d. & RE-GIONIS NOBILES affembling together at West minster at Christmas, to treat about setting the Peace of the realm after the accustomed manner, there issued one an Edist against Earl Ferrers, who was perpetually deprived of his Earldom according to the form of his Obligation, (for his Treason and rebellion against the King) and Edward the Kings son was put in possession of two Counties (or Excludins) to wit, Derby and Leicester. The same year after divers skirmishes between the disinherited Barons and persons, and the Kings forces; to settle a firm peace upon the Legates motion there was another Parliament held at (g) Kenelworth, wherein by the accord and consent of the King and Lords, the persons disinherited, whose Lands the King had consistent for their Treason and Re-

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bellion in the two former Parliaments, were notwithflanding admitted u on their submittion to the King for
reasonable fines and compositions, (reduced to a certainry by Bishops, and other Lords Commissioners) both to
their Pardons, Liberties, Charters, and Inheritances, 3.
only excepted; their fines not exceeding 3. years value, nor
to be under one; without any imprisonment, or loss of
Members: as you may read at large in the accord between them and the King at * Kenelworth printed in the * Dictum de *
Statutes at large. See Pat. 50 H. 3. dors. 9. the Patent Kenelworth.
Charter and Claus. Rolls of 50, 51, 52, 53. of Henry the

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In the (b) Parliamen of 21 E. 1. John Archbishop of Torke was impleaded and complained against for (x:om- (h) Clauf. 21 mu licating the Bishop of Durham being juxta latus Regis E. 1. m. 3. 2.
Dorfo: plac. per ipfins pracep um, against the dignicy of the King, and Parl, at. E.I. for impriloning William of Willicon, and John Rowman, two pla, 17. of the Bishops servants, in the Castle of Durham, being excommunicated by him in his Ecclesiastical Cour, for she Wardship of certain Lands to which the Archbithop pretended a Right; the Custody of which lands being a Temporal matter, belonged not to Ecclefieltical cogni-The Archbishop protesting, that although he ought not to arfwer for this matter in the Court of our Lord the King, yet he was willing to answer: And thereupon allegeth, that the Bishop of Durham was his Subject and Suffragan; and shews the whole matter and manner of the proceedings against him an this Servants in . his Courr, and jullifies the fame. To which Richard de Brechwell who profecuted for the King, answered, that the Bishop of Durham was to be considered in a twofold estare, one as a Bishop, the other as an Earl, in re pect of his Temporalties and Tenements: in which I ter espect he was not subject to his Archiepiscopal Jurisdiction; to which the Archbishop replied. After much and 'ong debate, it was adjudged and resolved by the Lords in Parliament; that for this offence, the Archbishop should be committed to prison: and likewise agreed; that in like cases it hould

should ever be so: this his Excommunication of them in his Ecclesiastical Court for a temporal matter: being an high contempt against the King, to the discherison of his Crown and dignity. Moreover, he was adjudged to make his submission to the King, and to pay a fine of 4000 marks to the King for this offence. The Archbishop hereupon makes his submission; and after much mediation to the King by his friends, his imprisonment was remitted, but the King would not abate one penny of his sine, for the due payment whereof, he was enforced presently to enter into a Recognisance; and so dismissed. The Record is very long, worthy perusal, but this is the summary of it.

(i) Walfingh. Anno 1283. (i) after the feast of St. M. chael in PAR. Ypodigmas

Ypodigmas

LIAMENTO tento Salonia, David quondam frater Lew-Neustria, p.71 lini Principis Wallia, pet Botentiozes Anglia sincicatus, Mat. West. an suocicaliter concemnatus, ad candas equorum per munica.

1283. P. 371. pium Salopia, tractus et suspensus est, visceribusq; combustis, co pus capite truncatum, & in quatuor partes est divisum quibus in Civitatibus Anglia Nobilioribus suspensis, caput Loudoniis super palum sixum est, ad terrorem consimilium proditorum.

King Edward the 1. Ann. 1297. the 14. of his reign (k) Tho. Walfingham, Hift. holding a Parliament at St. Edmonds, where there was Angl p.34.35 granted him an 8. part of the goods of Cities and Bo-Ypodigmæ roughs, and a 12. part of the rest of the peop'e : the Cler-82, 83. Mar. gy by reason of the Constitution of Pope Boniface made Westm. annothat year, prohibiting under pain of Excommunication, that 1296, 1297. no Taxes nor exactions (hould by any means be exacted from P. 405. 407. the Clergy by Secular Princes, or payd by them of the goods of Brir. p. 200, to the Church, denyed the King a Subfidy which he deman-220. Godwins ded of them to maintain his wars. Whereupon the King Catalogue of that they might deliberate of a better answer, deferred Bishops, P. 125 the business to another Parliament to be held at London 126. Fox Acts & Monum, p. the next day after St. Hillary, An. 1298. The Parliament 310, 311, Ho-then affembling, the Clergy therein persisted in their delinshed, p. 301, nyal of a Sublidy, upon the foresaid ground; The King thereupon (by his Nobles advice) excluded them from his protection, and probibited any Lawyers to plead for them in

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the Exchequer or before any other Regular Judge, as being unworthy of his peace, and feifed all the goods, movables and immovables of Clergymen found in Lay fees, and confiscated them. To redeem which Protestion many of the Clergy by themselves, and many by Mediators afterwards gave the King a fift part of their goods. The King finding the Archbishop more rigid than the rest, seifed all his lands, and commanded all his debts found in the Rolls of the Exchequer to be speedily levied on his goods: For the tame Archbishop by the affent of the Clergy had procured from the Pope an Inhibition; Ne quis Clericorum Regi respiceret, de bonis Ecclefia. The Clergy being thus put out of the Kings Protection, and thereby disabled to sue, or sit in Parliament, were secluded the Parliament house, the King holding the Parliament with the Temporal Lords and Commous alone, and making valid, good Alts and Ordinances therein in this case without the Clergy, as (1) Bishop Jewel (1) Desence (m) M. (rompion, (n) Dr. Bilfon and others affirm; hich Dr. pr. 6. c. 2. P. Standish averred he might lawfully doe before the Kings 521, 522. Council, and a Committee of Lords and Commons, in the (m) Jurisdic-Parliament of 7 H. 8. Keilwayes Reports, f. 184.6. Sirtien of Courts Edward Cooke being of the felfiame opinion in his 4 Infti- (n) True Diftutes, p. 25. citing other Prelidents of this kind to prove , ference bethat Acts may be made without the Bishops, as 15 E. 2. Exi-tween Chri. lium Hugonis le Dispenser. 3 Rich. 2. c. 3. 7 Rich. 2. flian Subjecc. 12. 11 R. 2. n. 9, 10, 11. 21 R. 2. n. 9, 10. 1 H. 5. c. tion, and Un-7.6 H.6. n. 27. bellion, part, 3. P. 541.

See my Antipathy of the English Lordly Prelacy to Unity and Monarchy, part 1. p. 50. part 2. 511. 460.

Peter de Gaverston (e) a del oi l'a civious person, for (o) Mat. W.st. his misdemeanours, and corrupting Prince Edward, (with p. 463. Thom. Walfingham, whom he was educated from his infancy) in the year 1306 Ypodigm.

Neuftrix, p.

99, 100. Hift, Angliz, p. 68, 69, 75. to 77. See Holinshed, Grafion, Stow, Speed, Daniel, Sir Richard Baker, and others in Edward a. Henry de Knyglton, de Eventibus Angliz, l. 3, c. 13, 14.

in a Parliament hen held by King Edw. the 1. affensa Communi Drocerum, fuerat exilio perpetuo condemnatus. ThistKing was no looper dea , and the Crown descending to King Edward the 2. but he presently recalled Gaver. Ston from his exile, against the will of the Lords, made him Earl of Cornwall, and gave him the Ife of Man: An. 1307. the very first year of his reign. He being more high in the Kings favour, more glorious in his apparel, and intolent in his behaufour than any other; thereupon, Anno 1309, Regni Proceres et Robiltores v dentes fe fontemni, & Petrum de Vaveriton unit u anteferri, accesserunt ad Re. gem, humiliter rogantes, ut Baronum suozum vellet confiliis tracture Regni negotia, quibus a poriculis jubi imminentibus non folum caution, federtier effe possit. Quorum votis facie tenus Rex armit. et Parliamentum Londini inflieu t fiori; ad quos omnes qui intereffe bebebant (mark it) benire mandavit. The Paritament direct according Anno 1310. Decreto Parliamenti, ad Baronum instantiam Petrus del Savertion in Hyberniam, Exilo relegatur. No sooner was the Patliament ended, but the King cansid Special writs to be written and fealed in his own presence, for recalling Gaverston from his exile, and rettoring him to his Lands; which writes he took into his own hands for a time, and then fent them to the Sheriffs, with special command-to fee them dul, executed, under grievous penalties. "Cluf. 5 E.s. In thele Wens he recites, that Atonufieur Piers de Ga-

m. 155.

vertion Earl of Cornwal, was of lace exiled our of our Realm against the Laws and Alages of the faid Resim, which be was bound to keep and maintain by the Outh be took at his Coronation. For which cause be did out of char common right and justice which was due to all his Subjects, recall and restore bim, without the Lords, against their wills; as the writs

P.99, 100.

(p) Ypodig. in the Clause Rolls inform us. p) Thomas of Walfingham ma Meuftriz, thus relates the manner of it, and ill consequence thereof to Gaverstons ruine, in these worde. "Soluto Parliamen-" to conclis gaudenter ad fua discendentibus, rex reman. "fir triffis, cogitans & disquirens cum privato spo conci-· lio, qualiter posset ipstim ab exilio revocare. Sug.

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"gestumque fuit ei quod si sororem Comicis Glovernia, "qui pro tunc erat juvenis toti regno dilectus, & fub tu-" tela Regis, præfato Petro daret in conjugem, posset ip-" sum intrepide revocare. Rex hiis auditis cum omni "fellinatione millis nunciis accersivit eum, & inter ipsum & fororem Comitis fecit celebrari nuptias, licet multum « Comiti displicerent. Exinde Petrus superbiens plus "solito, regni nobiles vilipendit, subsannabat Proceres, "mediocrelque delpexi". Et quia Rex permiferat sibi " facultarem pene faciendi que veller, quantum ad ea "quæ respiciebant personam regiam, capit sicut prius "thefaurum regis colligere, & negotiatoribus ultra mari. " nis accommo fare, non ad usus quidem regios, sed suos "proprios. Qui in tantum expilavit regem, ut non ha. beret unde solveret expensas soliras domus suz. Regia pa vero tantum rebus necestariis archabatur, ut regi "Franciæ patri suo lachrymabiliter quereretur, honore debito de privatam. Barones igitur considerantes, " quod eorum collerantia Petro malignandi præftabat au-" atiam, domino regi denunciaverunt affenfu communi, "ut bel bidum Petrum a fua propelleret comitiva, arti-"culofque provilos effectui manciparet, vel ipli certe in a eum tanquam perfurum infurgerent. Durus videba-"cur hiesermo regi quia Petro carere nescivit, sed plus "periculi cernebat emergere, fi petitionibus Procerum "non obtemperaret. Petrus igii ur abjurar regnum, regis "olus rermittione quam beneplaciro. abbita a Baronf. "bus conditione, quod fi de catero pollet inveniri in Ang-"lia bel aliqua terra regi subjecta, caperetur, et belut "hoftis publicus damnaretur. Igu us fub præmina con-"ditione dato fibi conductu, Anglia regnum lingens de-"seruit & Franciamest ingressus. Quo adito Rex Fran-"corum justit suis ut eum caperent, si quo modo posient, & diligenter custodirent, ne rediret in Angliam, & "Proceres ficut prius turbarer, & filiam. Petrus de hiis "præmonitus lugit in Flandriam, ibi quæfiturus requiem "nec invenit. Tandem cum suis confortibus alienigenis "redivit in Angliam, de amicitia confifus Comitis Glo-Mm

"verniæ cujus tororem duxerat in uxorem. Parum ante fettum natalis domini, regis se presentavit obtutibus, qui præ gaudio sui adventus, juramenta, pasta, promissa, negligens, tanquam cœleste munus hilariter suscept e- um, & secum detinuit cum familia sua tota.

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Anno 1311. post natale sumore vulgato de Petri re-" versione, regni Magnates & plebei conturbati sunt. Qui " necessitate ducti, elegerunt sibi Thomam de Lancastria "in ducem et defenforem, ut periculis consulerent & ma-· lis futuris. Nobiliores vero regni de communis decre-"ti sententia, miserunt honorabiles dominoregi nuncios "exorantes, ut vel dictum Petrum eis traderet, vel ut or-"dinatum fuerat iplum regnum evacuare juberet. Rex "vero finistro ductus consistio, Baronum supplicationes " parvipendens, ab Eboraco recessit ad Novum Castrum. "Magnates proinde sub omni celeritate ad Novum Ca-"frum iter arripuere. Quod cum Rex audifiet, quali " proscriptus aut exul, sugit cum dicto Petro Tynemu-" tham, et inde Scardeburgiam ubi habebatur castrum reegale, ubi præcepit Castellanis, ut custodiam Petri suf-"ciperent & castellum victualibus instaurarent, rege fe "alias transferente, nec opemferre valence, quin careretur & reduceretur usque ad villam de Dadington. "Ubi Comes Warwici, Guido de bello campo fecit eum "decollari tanguam legum regni subversorem & publicum proditorem; Communi Judicio. Which he more amply relates in his History of England, p. 69. to 77. Here we have judgement of banishment given against Gaverston by the Lords in Parliament 3. Several times: the 1. whiles a Commoner; the two later whiles an Earl, as an Enemy to the Realm and publike Traytor; and a Sentence of death denounced against him, in case he returned; which was accordingly executed on him by the common Sentence of the Lords; A Convincing proof of their Jurisdiction in criminal Caules, both over Commoners and Peers. His second banishment by the Lords, was ratified by a Bill, (as the Spencers was) to which the Com nons gave their Affent, (as they did to two Afts in the Parliament nic

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liament of 7 Edward the 2. printed in Totles Magna Charta, part. 2. f. 43, 44. Ne quis occasionetur pro reditu; as also, pro morte Petri de Gaverston, made by the Grant and Allent of the King, Archbishops, Bulhops, Abbots, Priors, Earls and Barons, ET TOU. TE LA COMMUN ALTIE de nostre Royalm;) By which Bill his Lands were all forfeited and give a to the King; as appears by Clauf. 12 E. 2. m. 5. where Hugh de Audeley the younger, and Margaret his wife, petitioned; A nostre Seigneur le Roy & son Counseil, PRELATES, COUNTS & BARONS de la terre: The Petition was for the Earldom of Cornwall after the death of Peter de Gaverston, to whom it was given in general tayl; Margaret being his daughter and heir; because THE GREAT CHARTER wills, that after the death of a Baron, his heir shall have his heritage and mariage; and the Statute of Westminster 2. Wills, That heirs in tayl (hall not be prejudiced by the deed, fine or feofment of their Ancestors; and the GREAT CHARTER also wills, That no man shall be outed of his freehold, without the award and judgement of the Law of the Land. Afterwards upon debate of this Petition, pro eo quod recordatum fuit by the LORDS AND COMMONS, that it had been AGREED BY THEM, that all things given by who King to Gaversion and Margaret, should be revoked; per and in koc Parliamento modo per prafatos Pralatos, Comiter, Baros nes, et totam Communitatem Regnt coulideratum eff, that the Earldom and all the rest of his Lands should remain in the King: that all Charters of it should be repealed, all enrolments cancelled; & quod eft adjudicatum intretur ad Scaccarium, et ad utrumque Curiam, there to be inrolled alfo. And there is a writ direct d to the Treafurer and Barons and Chief Justices of both Benches to inrol ir, in this Roll. This judgement being by way of Bill, in pursuance of the former Bill for his accainder, had the Commons affent thereto, as well as the Lords, though the Petition here was directed only to the King and Lords; for reflicution, not to the Commons: who could not be Ga-Mm2 ver fons

verstons proper Judges in Parliament, being a Peer, but

only by way of Bill of Attainder.

In the 15 year of King Ed. 2. the two Sir Hugh Spencers Father and Son, were articled against, impeached and condemned of High Treason by the Lords in Parliament, and exiled by their judgement, without the Prelates or Commons, who only confented to the A& for their banishment after the judgement given, of which at large before; (x) to which I shall here annexe the Arricles of their impeachment being very memorable.

[x] Exilium Hugonis le Dipenfer 15 E. 2. Totles Magna Charra, t. 52, 53, 54 Walfingham Hift, Angl. P.191, 2539.

Alhonnour de Dieu & de lainct esglise, et de nostre seignour le roy, et au profite de luy, et de son royalm, & a peace de quiete maintenir en son people, et pur meinteynment de lessate de la Corone, luy monstrent Pralates, Countz, et Barons, et les autres Pieres de la terre, & common du royalme contresir Hugh le Despenser le fitz, Knyghton de et Sir Hugh le Despenser le Pier, que come le dit fire Event, Angill Hughle Despenser le fitz au Parlement Deverwike fuit 3. c. 14. col. noime et assentu destre en losfice du Chamberlain nostre seignor le roy de servir en cel office, come afferoit : Au quel parlement fuit auxi allentu, que certeins Prelates et au res Grandes du roialme demorerent pres de roy par f. isons de lan, pur meulx counseiler nostre seignor le roy, fans queux nul groffe bosoigne ne se deveroit fair : le dit fir Hugh le fitz attreit a luy syr Hugh son pier, que ne fnit nient affentu ne accorde en parlement, a demourer enfi pres de roy, & enter eux deux, acroachant a eux royal power fur le roy & ses ministers, & le guyment de son royalme, a dishor our du roy, emblemisement de sa corone, et destruction du royalme, des grandes et du people, et sesoient les malueliees desous escriptes en compassant dessoigner le coer nostre seignour le roy des Piers de la terre pur avoir eux soule governance de la terre.

En primes que fir Hugh le Dispenser le fitz feufi coruce vers le roy, et sur ceo coruce fist un bille, sur la quel bille, il voillet auoir en aliance de sir John Gysfarde de Brymmesfeld, sir Richard de Greye, et dautre davoir mesne le roy par aspertee de faire sa volunte; issent que en luy no

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remilt mye, que il ne le euft fair, la renure de la bille fen-

fuit fous escript.

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Homage & serement de ligeance est pluis par reson de la corone, que per reason de person le roy, & pluis se lie a la corone que a la person, & ceo piert que avant que lestate de la corone soit descendu, nul ligeance est a la perion regardant. Dont si le roy par case ne se meisne par realone en droit de la corone, les leiges sont lies per serement fait à la corone de remeuer le roy, et le state de la corone par reason: & autrement ne ferroit le ferement tenus. Ore fait a demander coment I m doit amesner le roy, ou par suite de ley, ou par aspertee? par suite de ley ne luy poet home pas redresser: car il navera pas juge, si ceo ne soit depart le roy. En quel cale fi la volunte le roy ne foit accordant a reason, fi naveroit il forsque errour maintenue & confirme. Dont il covient pur le serement lauuer, et quant le roy ne voet chose redresser & oustre que est pur le common people malueis et damageous par la corone, a judger est que la chole soit ousse par aspertee; que il est lie par son serement de governer son péople & ses lieges, & ses liege, ont lies de govern en eide de luy, & en defaut de juy.

Et auxint, par lour covin & malveistz mesneront & male conseileront nostre seignour le roy, si que a sa presence, quel il doit de son devoir monstrer a les grandz, et a son people, & a les graces & droit que eux suy requeront-responder ne suy sist point forsque a la svolunte & a la taille les ditz sir Hugh, & sir Hugh, en oustance le roy de son devoir contre son serement, et les cueurs des grandes et du

people de son seignour liege.

Auxint, meines ceux par lour male conueigne ne suffrerent pas les grands du realme, ne les bons counseilors le roy parler ne approcher le roy pur luy bien counseyler, ne le roy parler a eux, et a lour volunte, et solone lour taille, et chose que ils voillent in rebotaunces les grandes et les bons counseilors le roy de lour bone volunte enuers lour seignour liège, et acroachaunt a eux royal power, maistree, & soveraigntie sur la persone le roy, a grand dishonour et peril du roy, & de la corone, & de son royalm.

Auxint

Auxint meimes ceux pur attainder a lour malveliees, & covellies, et difheritance des grandz de la terre, et defiruction du people, ousleront bones et covenables minifters que furent mis par affent, et ministrent aurres faux & malueys de lour covine, que ne suffrent droit estre fait, et viscountz, escheitour, conestables des chastelx, et autres en les offices du roy, pient covenables pur le roy, ne pour le people, & fesont mettre Justices, nient tonusant en ley de la terre, doier et terminer les choies tounchant les grandes et le people du royalme, si come le dit sir Hugh le pere, fir Raufe de Baffer, fir Rafe Camoys, and fir John Juge, et autres lour alies et jures especialment : & par covine de tielz ministres, & lour faux procurours & fautours sauxement sesoient enditer par faux jurrours de lour alliaunce les Peres de la terre, cest a scauoir le Count de Hereford, mon fir Gyffard de Brumtelde, et mon fir Robert de Mouchant, et autres bons gentz, pur couetife davoir lour terres, & islint eeo que deust estre a la maintenancede la peax, & des bons, & punishment des m:lueis, meineront a dishermance des grandes et destruction del people.

Auxint, fauxement & malueisement counseileront nostre seignor le roy daler oue chiualx & et as armes vers les parties de Gloucester, et luy sierent chiuaucher et les gent armes en cels parties a cour sur les bons gentz contre la sorme de la grande chartre, et lesgard des Piers de la terre: & issent par lour saux et malueis counsell, voloient avoir mou guerre en la terre, a destruction de

faint esglise et de people pur lour querel propre.

Auxint, lou le count de Herford, et le seignor de wygmore par commandement de roy assign dalier de guerre
sur Thlewelyu Bten, que seust leue encounter le roy en
Glamorgan, ant come les terres surent en mayn de roy par
la morte le count de Glouc, le dit Thlewelyn se rendist
a les ditz seignours a la volunte le roy en sa grace, et ses
seignours luy par mittrent bone grace, et sur tiel condicion le recovererent, et luy liverent a nostre seignour
le roy. Et nostre seignour le roy en tiel sourme luy re-

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ceust, et puis come les ditz seignours seurent hors de la terre, les ditz Syr Hugh le sitz, et Sir Hugh le piere, que avoient acroche royal poiar, sicome de suis est, pristent le dit Thlewelyn, et luy mesnerent a Cardiss, puis que Syr Hugh le sitz seust seisses illonques de sa purpartie, et par lour coveigne en parnant jurisdiction lou nul est en cel case ne poient par reason avoir, et luy firent illonques treiner et pender, decoller, et quartroner selonousement pur chose sair entemps le roy Henry. Et ensi purparnant roial poyar et jurisdiction, que appendant a la Corone en disheritance de la Corone, et a deshonour nostre seignor le roy, et des dites seigneure de Hertsford et de Mortimer, et en malveis exemple et graunde perill, par case en temps a venir.

Et auxint male counseilant nostre seigneur le roy de prender en sa mayn les terres et les chateux Sir Hugh Dundle le sitz: et le soringerent de ses terres sans du proces solonques la lee de la terre, pur covetife davoir la croche au dit Sir Hugh le Dispenser le sits certeins terres. Et par autre saux compassements compassa davoir les terres mon Sir Roger Dammorie pour avoir atteynt partielx et saux compassementz al entire del Counte de Gloucestre, en disheritance des piers de la terre.

Auxint la ou nostre seigneur le roy, par ses letters patentz desous son grande seale en plain Parlement a West's grant a Counte de Warwike, que si mort luy avenust, que les executours puissent avoir ses terres, tang; al age son heir: la quel grant puis la mort du dit Count le roy confirma a son parlement a Nicolne, al request et par assent de piers de la terre, le dit Sir Hugh le Despenser le pier, par meintenance, abbette, et procurement le dit Sir Hugh son siz, sist nostre seigneur le roy repeller ce le sait sans encheson, et baille au dit Sir Hugh le pier, pur son propre prosit, la garde de mesmes celes terres, et issint de sesant par lour malveis counseil ceo que le roy lour avoit graunt en ses parlementes par son bon counseile, et par assent des piers de la terre, a deshonour du roy, et encountre droit et raison.

Auxint, melmes ceux nount pas luffertz nostre seigneur le roy prender resonable fines des piers de la terre, et autres que sont entre son see, come ad este use eins ces heurs: Mes pur covetise dattendre a tielx terres, par poiar roial a eux accroche, ount sait metter en reiels bosoigne non dues empechementes, surmetrantes la terre estre forsair, come de Mounsire John de Mombray pur les terres de Gower, et des autres, a damage et dishonour nostre seignour le roy, et countre la loy de la terre, en desheritance des grandes et des auters du Royal n, ensi seisant le roy veer

en parlement contre son serement.

Auxint, pur lour malveis covetile, et par poiar roial a eux acroche, ne sufferent nostre seignor le roy doier, ne droit fair' as grandes de la terre, sur la demonstrance que ilz fesoient a luy, pur luy et pur eux de la disheritance de la corone et de eux, touchant les terres que furent as templers. Et islint par poiar roial a eux accroche ont ils mesne nostre seignour le roy, son counseil et ses prelatz, que des choses touchant eux ou lour alies, ount emprise et embrace par eux que droit ne poet estre fait forsqua lour volunte, et a dammage et a dishonour de nostre dit leigneur, et peryl de son terement, et dishinheritaunce, et destruction de plusours autres grandes du people de son royalme. Et auxint de eslues as evelq; abbes, et priours, que devoient de droit effre resceux de nostre seignour le roy, lou ils sont en due maner eltues, ne poient approcher a nostre leignour le roy, ne oue luy parler de querer sa grace, tanque ils avoient fait fine et fret Sir Hugh le fiez a la volun.

Ne nul que eust grant aquere de nostre seignour le roy, ne poet a nul grant attein er avantq; ilz avoient saitsine a luy. Estre ceo lou John de Lacchelegh et autres suerent agardes a la prisone pur un trespas que ils avoient sait a la dame de Merk, a damag. de la dist dame de M. Centz marcz, dont ils surent atteintz devant mon Sir Robert de Middyngle et ses compaignons Justices assignessa oier et terminer cel temps, cel traspas, et le dit John seust en la prison de Colcestre par la gard suisdit, Sir Hugh le sitz ac-

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crochaniz a luy roial goiar amelna le dit John, hors de la prison, contre leve de la terre, eins que il avoit fait gree a la dit dame des damages avantditz, et luy fift vender la

terre a luy, et lever fur ceo un fine.

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Claus: 16 E. 2. m. 5. There is this memorable case recorded. The King being at Eilhops-Thorpe near York; held a Council with his Lords (divers of which are there named) concerning the Truce with Scotland : inter ques Robfles, Hen. de Bellamont Baro, & de Magno et fecreto Concilio ipil Domino Regi juratus, vocaius fuit, o ibidem venit. Being there prened by the King to give his advice herein, quodam motu excessius, & animo quasi irreverenti dicto Domino Regi sape respondit: quod sibi consulere noluit in hac parte. Whereupon the King commanded him thence: Upon which he went out of the Coun. cil, and faid: He had rather be absent, than there. Upon which contemptuous carriage and words confideration being had by the Lords and Council, a by all the Judges & Barons of the Crebequer, being there amongit others (to wit, as allitants) in regard he was fworn, and had taken the Oath of a privy Counsellor to the King, being called in again, Committitur Scala Prisona pro contemptu & inobedientis pradictis. After which he was let to main; rife; and a truce being there concluded with the Scots; thereupon the writs ad arma, Oc. were revoked, that were formerly idued to the Tenants by Escuage and Knights dervice.

In the (b) Parliament held at Winchester, Ann. 2 E. 3. Knyghton de Edmund Earl of Kent the Kings Uncle, by the infligation Event, Angl. and power of Roger Mortimer Earl of March, was arrelt- 1.3. c. 16. col. ed, impeached, condemned and executed, for confpiring 2257. Waland attempting to rescue his Brother King Edward the 2. Angliz, p. 100. and saying he was alive, after the time he was murdered; 101. Ypod'gwhich Treason, was said to be manifestly proved by Let- ma Neuftria, ters found about him; and by his own voluntary confession. P. 118. Clauf. on before the Coroner (recorded in Walfingham, and 4 E. 3. m. 18. the Clause Roll of 4 E. 3.) which Letters and confession were openly read in Parliament; pur que one le assent des

(h) Henry de

County, Barons et autres Brantz et Robles en me (me le Parliament, par agard dicelle, estoiet ie dit Count come Nostre Trayeure et Traisure de Royalm adjudge a la mors: as the King himselfrecites in his Writs and Letters to all Sherifs. Clauf. 4 E. g. m. 16. derlo; De morte Ed. mundi nuper Comitis Cantii sublicanda; commanding them to publish this as the cause and manner of his death, and to arrest all those that said, King Edward the 2. was alive, or that the faid Earl of Kent was otherwise put to death. that by this record, being a Peer; he was adjudged to death only by the Earls, Barons, Great men and Nobles in Parliament, without the Commons, not named in this re-(g) Cottoni cord. And therefore (g) the Kings Letter to the Pope in 4 E. 3. relating the proceedings and judgement against

Posthuma, P. 349.

the Earl in these words, if truly recited, Comitibus Magnatibus, Baronibus, & aliis de COMMUNITATE dicti regni ad PARLIAMENTUM illud congregatis, in. junximus, ut super biis DISCERNERENT ET JUDI. CARENT quid rationi & justifia conveni et , habences pre oculis solum deum; qui eum CONCORDI ET UNANIMI SENTENTIA tanguam reum criminis lafa A! ajestatis, AD JUDICARENT ejus sementie &c. Objected by Sir Robert Cotton, to prove the Commons to have a share and voice in judicatures in Parliament, and that not in the case of a Commoner but this great Peer 3 must needs be understood of an Attainder by Bill, to confirm the judgement formerly given against him by the Earls, Barons, and Lords alone in this Parliament, as in the case of the two Spincers, not long before; not of his original sentence, given only by the Lords, Barons, and other Great men and Nobles, as the Clause Roll and all Writs to the Sheriffs record. Which the Parliament Roll in 4 E. 3.n. 11, 12. doth likewise intimate, where Earl Edmonds elder Son, and Margaret Countesse of this Earl of Kent, by their Petitions prayed, that THE RECORD (or Bill) against the said Earl might be reversed for erforstherein appearing, and he to be reflored to blood and lands of his Father, and the to her Dower, which

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was granted and ordered by Parliament, faving to the King the wardship of the same during his minority; and thereupon it was further enacted, That no Peer of the land, nor other persons should be impeached for the death of the Earl of Kent, but only the said Mortimer and 3 more (then impeached and condemned of High Treason for his murder as well of the deposed Kings) and that his Countes should have her Dower, as Claus. 5 E.

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In the Parliament of 4 E. 3. rot. Parl. n. 14. Edward (k) 4 E. 3. rot. the eldest Son of Edward Earl of Arundel, condemned and Parl. n. 3, 4. beheaded without any legal trial by his Peers, by Roger 13. Cooks 3. Mo timers power and procurement, Anno 18 E. 2. peti- Inft. p. 7. tiosed that he might be relitored to his Fathers blood, lands, and goods . confidering the faid Earl was unduly pur to death, (i) being not tried by his Peers, according (i) See Hen, to the Laio e the grand Charter. But for that the faid de Knyghton, Attainder was atterwards confirmed by Parliament , he de Event, amended his Petition, and prayed in such wife to be re- Angl. 1. 3. c stored of the Kings meer grace; Whereupon he was re- 14. col. 2549. flored to all his Fathers lands, and to Arundel Calile, Wanningnam, faving to the King all fuch lands as were given to this 106. Earl by King Ed. 1. whereupon he did homage to the King in Parliament, and had livery of the king of all his lands, per allenfum of the Lozds; as i recorded in rot. Fin. An. 3 E. 3. m. 14. Claul. 4 E. 3. in dorlo, and Claul. 5 E. 3. part. 1. m. 2, 3.

In this Parliament of 4 E. 3. n. 6. The Lords claim to (m) An Exbe JUDGES OF THEIR PEERS IN THAT & FU-2d Abridge-TURE PARLIAMENTS, in cases of Treaton, &c. And of the Rent I. Rager Mortimer Ear of Murch, who had formerly cords, p. 6. 8. condemned and beheaded other Peers, without any legal trial by their Peers, and deposed, murdered King Edward the 2. was by divine retaliation arrested at the Parliament held at Nottingham by the Kings command, then sent Prisoner to the Tower, impeached, attainted, condemned and executed himself as a Traytor, without any hearing, or personal defence, BY THE LORDS

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the Kings offent: The Articles of his Treatons, Pelonies,

112. Hift.

Angliz, P.

and other mildemeanors entre tin that Parliament Roll, scarce legible now were read before the Lords against him and other of his companions. The Articles against him *Walfingham are thus related by * Walfingham. Causa qua impone-Ypodig. Neubantur eidem prout accepimus,ift a fuere, Willes Walfingham, ftriæt p. 111, Prima caufa, quod fuis confentiens morte Regis Edwardi in castro de Berkley. Secundo impositum ei fuit, quod ipse im-112. 4. E. 3. pedivit bonorem Regis et regni apud Stannyparke, ubi rot. Parl. n. 1. Scoti fugerunt, qui capt & interfici potnerunt. Tertio, qued isse accepit 20 millia mercarum à Scotis, & illes tunc permisst evadere, & turpem pacem postmodum inter Sco-105, et Regem ju venem fieri procuravit; et super boc Chartam Regis fieri fecit eisdem. Et etiam illud vile matrimonium contractum inter fororem Regis et David filium Roberti de Brus, consummari consulnit & procuravit. Quarto, quod male consumpsit totam pecuniam in the fairis papris hugus Reque, et Domini Hugonis de Speneer inventum, et omnia bona regni, postquam Angliam regina intravit, sue dispositioni subjecit, ita quod iple & Regina abundabant, & Dominus Rex egebat. Quinto, quod appropriavit sibi custodias, et maritagia nobiliora per totam Angliam. Et quod fuit malus Confiliarius Regis & Regina mattis, et nimis fecretus cum ea, ut de aliis taceamus. These with other Articles mentioned in the Parliament Roll being read; thereupon, Les ditz COUNTZ, BARONS, ET PIERS, COME JUGGES DU PARLIAMENT (as the Pailiament Roll it self recites) per affent du Roy in mesme le Parliament agarderent et ajugerent, que le dit Roger COME TRAYTOUR ET ENEMY du ROY, et du ROY-ALME, fuist tregne et pendu. Upon which sentence,

> without being called to answer, the Earl Marshal, by the Kings and Lords command, affisted with the Mayor and Sherifs of London, and the Constable of the Tower, executed him the Thursday next after the first day of the Parliament. Ubi mortis excepit fententiam trastus & suspensus apud Elmes, super communi furca latronum;

as Walfingbam relates . -

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The Articles of this Regicides impeachment being vety memorable and somewhat larger than those in Walfingham, fearce legible in the Parliament Roll of 4 E. 3. I shall here present you with , together with the manner De Event of his apprehension and judgement, out of " Henry de Angl. 1.3. c. Knighton. King Edward perceiving the great malice and 16. col. 2556, cruelty of Queen Ifabel his Mother and Morrymer, that they occasioned many seditions, favoured the Scots to the great dishonour of the King and Kingdom, destroyed the King her Husband: Et quanta mala corum confilio &: auxilio exercebantur in regno, quantaque mala opera corum fomento velabantur, by the fecret advice of his friends, refolved to separate them from one another, to prevent greater mischiefe. Nam in tantum invalescebant in terra, quod totum regnum in periclicando labi videbatur. Deinae Rex tenuit CONCILILM SHILM apad Notyngham in quindena Michaelis cum pene omnibus Magnatibus regni. In quo Rex-saniori consilio de eorum fraude et malitia salul rus edoctus, viden que periculum tam prateritum quam in posterum jam in prasenti per dictos Isabellam et le Mortymer evidenter imminens, graviter in corde condolens suscepit; sie que die Veneris in crastino fantti Luca Rex cum eletta comitiva in obscure noctis, perrexit per quendam viam subterraneam de villa Notynghamix usque in castellum, et venit ad cameram matris sua Isabella, et invent ibi prope eam in alia camera Rogerum de Mortymer, et Episcopum Lincolnienters Henricum. Et fatim Rex jussit Rogerum apprehendi, et in securam custodiam usque in crestinum poni. In crestino fecit apprehindere omnes suos adharentes per t. tam viltim difperfos Et flatim misit omnes Londonias, videlicer le Mor tymer , et duos filios ejus , feilicet Galfridum & Edmis. dum milites, et Dominum Oliverum de Byrgam, Dominum Simonem de Berforde. Et in captione Rogeri Morymere occifus est Dominus Hugo de Tryplyngton miles et senescallus familia regis per dictum Rogerum Mortuner in ingressu regis in camera corum. Ilabella mater regis adjudicata est perdere omnes terras fuas, et cum dificultate evast dampuationem ad mortem, so quod eras maer regis, et ob rer vereuti.m

verentiam regis dilata est senientia. Et ordinatum est singulis annis caperet de cista domini regis ad susteniationem suam tria millia mercarum, et maneret in uno certo loco ubi rex pro ea disponere vellet. Magnates regni imposuerunt contra Rogerum Mortymer Articulos sequentes.

* 4 E. 3. n.1. 28 E. 3. n.9,

*Primerment, que par la ou ordence fuist al parliment de Londrez proscheyne apres la coronnement nostre seiguour le roy, que quatres Eveskes, quatre Contes, et vj. Barones dustent ettre pres du roy pour la conseyller, issint que tote foitz quatre y fuiffent; Cest affavoir une Eveske, une Conte, et dieux Barons, a meynez, & que nule groffe boloigne soit faite fanz lour assent, & que chescune responditt dez ces fetz pur son temps: la dit Roger nyent eyant regarde al dit affent, accrocha a luy real ponare & le governement del realme fur lestate le roye, ousta et filt oustre et mettre ministres en loustele le roy et aillours par my la realme a sa volunte de ceux que furent de son acorde. Et myit John Wyarde & altres entour le roy despyer cez faitz et cez ditz, isfint que le roy fuilt en tiele manere envyrone de cez enmys qui poet riene faire de sa volunte, mes auxi come une homme de south altre garde.

Ensy, par la ou le piere nostre seigniour le roy seust a Kenilworthepar ordinancez dez pieres de la terre a demorer illoeques a ces estres, pur estre servi come afferoit un sele seigniour, le dit Roger par real pouare a luy accroche netessa tant qil leust devers luy a sa volunte. Et ordyna qil stast mande au chastiel de Berkeleye, ou par luy et par les sones sust fausement, traytouresment et selonesment

nordre ettue.

Enty, le cit Roger fist desendre par briese le roy souz le grane seale, que nule venist al parliment de Salisbury a force « armes, sor quant qil poet forsere devers le roy. Et la vya le dit Roger et autres de sa covygne a force et armes al de parliment contre la dite desense. Par quoy plusours de h terre, come le Conte de Lancastre et autres sachans la mauere de sa venue, nevyndrent poynt. Et come par la ou lez prelatz estoyent assemblez al dit parliment

liment en une meaton pur counteiller four lez bosoignez le roy, et de realme, le dit Roger debrusa les eos de la mealone ove geniz dez armez four lez ditez prelatez, et lez manaila de vye er de membre fils fuillent fi hardys a dire oue faire riene encontre sa volunte et ordinancez. Et en melme le parliment filt cant, que le roy luy filt conte de la Marche, et luy dona plusours terres et tenementz en disheritance de sa coronne. E puis mena le dit Roger e ceux de la covygne nostre seigniour le roy armez sur le contede Lancastre et autres piers de la terre tanque a Wincestre, la oue yls estoient venancez devers le roy, au dit Parlement de Salesbury. Parquay le dit conte et lez autres pieres de la terre pur eschewere le peryl que poet avenir, a la reverence du roy, departirent et aillerent envers lour pays, dolons gils ne poyent ove lour feigniour lige parlere ne conseiller come ils deveront.

Enfy, le dit Roger sist le roy chivacer forciblement sur le conte de Lancastre et autres piers de realme que estoient ordeignes davoyr estre pres du roy pur luy conseiller. Et en tant les enchasa par sorce, que le dit conte et autres grantez del realme que voil rent prositeau roy, se mistrer a la grace le roy, sauve a eux vie et membre, et quis ne suissent disherites ne al trop grant ranson; Mes ils surent mys au trop grante ranson que lours terres vendront a tous jours. Et les autres sit enchacer hors de la terre a seiser lours terres, contra la sourme de la Grante Charte et leye

de terre.

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Ensy, par la oue le dit Roger savoit biene que le piere nostre seigniour le roy est oit morte e enterre, il par altiez de sa covygne en desceyvance maner, sist entendre al Edmund conte de Kent, qil suist en vye: par quey le dit conte suist moult desirous de savoire la verire. Et sistespier par totez lez bonez voiez qil savoir, tanke le dit Roger, par real powere a luy accroche, sist prendre al parliment de Wincestre le dit cont le Kent, procuta qil suist iilocques mys a la mort.

Eniy, le dit Roger fist le roy doner a luy sez enfantz e a sezalies chastieles, viles, maners, et francheses en Engle-

* De Winchester. serre, Irland, et Gales en decreue de la coronne.

Ensy le dit Roger en disceivaunce manere fist les chivalers dez contez gratier au dit *parl: al roy de chescunevile Dengliterre que respont par quatre, et le provost en eyre vne hom me de armes a lour costages en sa guerre de Gascome par une an; la quele charge le dit Roger avoit compasse a tourner ceo avoyr en autre prosite pur luy et autres de sa covygne, en destruccion de people.

Ensy, le dit Roger par real pouare la luy accroche fist maundre lettres inth la grante chartre au plusours grantz chivalers et altres que ils venesont al roy queu part qui fust, et a lour venue le fist chargere qui se addressent daler en Gascopne, ou quis seissent syn oue ranson a sa volunte; Dez queuz ascunez syrent syn grievous, et sout le pluis est se-

puz au profite le dit Roger.

Enfy, le dit Roger fausement et maliciousment sist le discorde entre le piere nostre seigniour le roy et la reyne sa compaigne, et sa sist entendre, que si ele out venuz a luy, qil la out tue de cotele, ou altre arme, ou autre manere de mordre, et par tiele cause, et autres sotilletes si sist il tant que la reyne ne vint pas devers son seigniour, al grant dishonour du roy e. de tote realme, et damage par cas en temps avenir, que de dieu dessende.

Ensy, le dit Roger sy ad pris er faite prendre devers luy et les autres de sa companie de tresore le roye a sa volunte sans noumbre en deners et jeueux, en destruccion du roy; issint qe le roy nad rien de paiere pur son viure.

Enfy, le dit Roger si ad sait prendte devers luy et devers sez alliez lez xx mille marz quex sont venus hors dez Scozee pur la sourme de la pees, et rien est venue al pro-

fite du roy.

Ensy le dit Roger cez prises par my le realm auxi come roy et seigniour de tutte, et entre luy et lez autres de la covigne merent al double del gentz et chivalez en la company le roy que se roy ne sist, en destruccion del people, sans faire payment altre que a sour volunte.

Enfysle dit Roger par son real pouare fist le roy granter ala montance del CC. chivalers a ceoux Dirland que a-

Yount

vount tuez lez grantes et autres de la terre que furent de la foy le roy en cellez partyes. Par la ou le roy devoit pluis ost par reson avoyre vengee loure mort de pardonee

contre fourme de parlement.

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Ensy le dit Roger compassa devoyre destrut lez noryes le royset lez secrettez le roy de queuz il se pluis assy. Et susmyt al roy en presence la reyne sa miere et dez eveskes de Nichole et de Salusberge et autres de counsaile le roy que lez avanditez secretez le roye luy exciterent destre la covygne dez enmys par de lay, en destruccion de sa miere et del avant dite Roger; La quela chose il assirma tant sour le Roy que le parole le Roye ne poet creu. Et cele véndurdi deinz la nute qils estoient prisez, a la myt nyt suant, donke pur lez causez sussessires et molt dez autrez choses que ne sont pas ore a dyre touz, si siste le dit roy prendre en la manere par eide et avisement dez priveez et nuriicz come il vous ad souent monstres.

Tunc propter causas subscriptas et multas alias que jam non sunt recitande ad prasens, Rer pracepit Comitibus, Baronibus, et cateris Pagnatibus regui, justum juvicio um terre super pravidto Rogero Portpmere. Qui omines adinvicem consulentes venerunt, ascenses, quod omnes et singuli articuli superius de dicto Rogero attestati veri sunt et notorii, et omni populo terra cogniti, et pracipue articulus tangens mortem regis apud Betkeleye; unde respiciatum est et adjudicatum, quod pradictus Rogerus, ut proditor et inimicus regis et regni, distrastus sit et suspensus tertio kalend. Septembris apud Londonias. Cujus corpus duobus diebus et

By these Articles it is evident, 1. that it was adjudged high Treason in him to murther King Edward the 2. atter his resignation of; and deposition from the Crown, by his own and a Parliaments consent; How much more then to destroy; murther him, when an actual lawfull King; when never deposed, without and against his Parliaments consents, and contrary to their resolutions, protestations, Covenants, Oaths? 2ly. That to come with armed forces to any Parliament, to over-awe, force, me-

nace, territie thereby , and drive away any of the Members thereof from it, and compel the reft to comply with. or not to oppose what this armed party propounds or to put any Nobleman to death) is a high and treasonable offence; That Lords and other Members may justly depart from Parliament without doing any thing, when there is any fuch force upon them : Let Lilburn and others guilty of fuch Treasons sadly confiden them, and take timely warning by this prefidence and I was a live y

In the (a) Parliament of 28 E. 3. n. 7.40 14 . Reger

(n) An Ex-

ad Abridge- Mer imer of Wigorn, Cofin and heir toohis executed men.p 85,86. Roger required by his Petition, that the Act of his Attain. der in the Parliament of 4 E.3.n. I. might be examined, and for manifest Errors therein reversed; whereuponthe record was brought into Parliament, and all the Articles, Proceedings and Circumstances of his Judgement at large recited. Which being read, to was slieged, that the judgwest was defective of erromous in all points (nor for the tubfrance of his Charge) for that the faid Earl mas put to death and difinberied, (by the Linede, as Judges of Partisment, by the Kings command) Saus malle accusoment, yel fans offre mefue an juggement, an en respans, without any accu'ation, and without being brought to Judgement, or to answer : for which causes it was prayed, That the fand Statute and Judgement wight be reverfed and annulled. caules, Nostre Seignonr le Roy, et les dies Prelates, Prince, Duks , Countre et Barons , per accord des Chivalers des Conner, et des duz Comunes, renellent et anientiffent, et pur erroigne et irritajudgent les Records et Juggements fais ofter This Judgement (whole revertal is also Tecited in Clauf. 28 E. g. m. 7. & 29 E. g. ror. Parl. n. 29.) though given in Parliament, being erronious and void in Law, because given without any lawful accusation, trial, answer and arraignment of the party, against the Great Charter and Law of the Laud; which ought to be observed, pot violated by the Lords or Parliament it felf in their Judicial proceedings.

In this Parliament of 28 E. 3. n. 13. Richard Earl of

Arundel:

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Arundel by Perision shewed; that in the Pariament of i E. 3. touching the attaindet of Edmond Earl of Arandel his Father, a Statute was made without forfeiture, albeit he was put to death, and prayeth, that he may now be taken as heir of his Pather, and that Act reverled as erronious? which being read, and duly confidered, et for ceo one bon deliberation et anys a graum leifer per noftre Scigniour le Roy, Prelates, Princes Dake, Coume et Barons avantdice, il apiert clerement que le dit Edmund fuift non daement milt ala mort; t que parols recites en le die Statute touchant la mort et destruttien de dit Edmund font voydes, erroignes et untles. Par quoi nostre Seignior le Roy et les ditz Prelaces, Prince, Dikes, Countz et Barons, per accord des Chivalers des Coun. tes erdes dites Commune, ajuggent et agaroent, que la recitation et quelque eft en le dit Statute touchant la mort et de-Arnetion du die Edmund, som Voides, erroignes et nulles, &c. es loins unientez et pur nul tenuz a toutz jours. The faid Ed. mund being put to death without due proces or trial byhis PEERS, according to the Law of the Land and the Great Charter; Therfore the Act confirming this erronious attainder; was thus reverled, repealed, and nulled.

In thefe two last Records it is othervable : First, that the King and Lords debated, adjudged these Judgements and againders to be erromons; but became they were confirmed by AA of Parfiament, the affint of the Knights of Shires and Commons was required and had to their reversal, as well as to the nulling and repealing of other publike Acts.

In the Parliament of (a) 50 E. 3. ror. Parl.n.21. to 31. William Lord Laymer was accused by the Commons, for (a) An Exact divers oppressions by him done to the Kings people, both abridgement during his command in Britain, and also in the time that of the Records he was Chamberlain to the King, and of his Council: in of the Tower, levying divers fums of money for victuals and ranfoms amounting to many thousand pounds, for which he nev r accounted; For the loss of fundry Forts and Towns in Normandy and Brittain to the Enemy, of which he had the command, and partaking with Richard Lions in those illegal Impostions, and milde meamours, whereof he was then ·mı

impeached by them. Whereunto the Lord Latyme, fabing the trpal of his Beers, offered to aniwer any particuiar perions that would complain against him; but that the Commons would not do, but prayed he might answ. their charge in general: whereuponhe answered every of the Charges against him, and that very fully in openPar. li ment before the LORD's. Yet notwithstanding the Bishops and Lords gave Judgement against him in full Barliament; that for his ill Couniel and Government, against the profit of the King and Realm, and namely for divers Chevilances to the Kings loss, for procuring grants to the destruction of the Staple and Town of Calice, and for divers impositions laid upon wools, he should be committed to prilon, under the cultody of the Marshal, and make fine and ranfom at the Kings pleasure. Whereupon the Commons further required; That he might lofe all his Offices, and be no longer of the Kings Council: which the King granted. After which this Lord found certain Lords and others of quality (whole names are mentioned in a Schedule annexed to the Parliament roll) to be his Mainpernors, for the forth-comming of his body during the Parliament: Upon which the Marshal offered him to be at large.

abridgement, P. 123.

In the same (b, Parliament, 50 E. 3. rot. Parl. n. 34. (b) An Exact John Lord Nevil was accused, that during the time he was of the Kings privy Council he bought certain debts due by the King to the Lady Ravensham and Simon Love, a Merchant, at under values; and for receiving of the King more wages and for a longer time than was due for one hundred Souldiers in Britain. Upon which he confelled he received 95% of the Lady for the obtaining of her debt only our of her meer good will, which was not disproved. The Charge touching Love, he wholly denied. thereupon being brought into the Parliament before the Lords; wholly excuseth the Lord Nevil: But because Love the day before had confessed the contrary unto two of the Knights of the Parliament; he was committed to Prison by the LORDS. To the receiving of Wages, he fully

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fully cleated himseif: Notwithstanding the LORDS GAVE JUDGEMENT of imprisonment, and of loss of Lands, Goods and Offices against him; and that he should make restitution of the 95 l, to the Ladies Executors.

These Judgements at the Commons importunity were so unjust; that in the very next (e) Parliament of 51 E. 3. (c) An Exact rot. Parli. n.75. upon the prayer of certain Bishops, Lords, and the Commons themselves, the Lord Latymer by the Kings grant and royal assent, and the Authority of the Lords was restored to his Offices and Privy Counsellor ship, whereof he was deprived by them this Parliament, upon untrue Suggestions. Such partiality and injustice is there many times even in Parliaments themselves, out of malice, section or assection.

In the (d) Parliament of 7 R. 2. holden at Westminster (d) An Exact the Monday next before the seast of All Saints, rot. Parl. r. abridgement, 13.15.00 24. Ralph Nevil the martial Bishop of Nor. P. 291, 292, wich was accused in Parliament, for not serving the Kirg singham, Hist. in his wars in Flanders for so long a time, and with so many Angl. p. 332, men, and with a sufficient General, as he promised, whereby 333. the Voyage was lost, to the Kings dishonour and damag, and for selling the Castle of Grandin to the French to.

and for felling the Castle of Gravelin to the French for money: which the Chancellor in open Parliament declared against him: The Bishop answered thereunto in person, albeit in this case he said, he might have Counsel: with this Protestation, that he might at all times, avoyd or amend his answer. To which answer of his the Chancellor replied: In conclusion upon debate, THE KING AND LORDS resolved his answer to be no sufficient excuse of what was charged against him : Whereupon the Chancellor by ASSENT OF THE LORDS, concluded, That although the King might pals on the Bishop as a Temporal Lord, by reason he took upon him to serve him as a Souldier, and had the Sword carried before him, contrary to his profession; yet for that time (in regard he was a Bishop) the King would spare to lay hands on, or imprifon his person, as he might doe. And therefore they AD JUDGED him, to make fine and ranfom to the King, at

his pleasure, whereunto he bould be compelled by the seisure of his temporalties: And is was commanded that from thonce ibe Sword (hould no more be carried before him.

(d) Walfing. P. 337.

In the same (e) Parliament held this year, about the Hift, Angliz, fealt of St. Martin "in que (prout jam a multis confuevit "temporibus) nihil dignum memoria fuir actum, præter "illud quod sedulo a dicabat ar (as now in our age.) extor-" tio, idelicet occunia de clero et communi piebe ad fu-" flentationem militibus werra regalis. Nondam Par-" liamentum finitum fuerar, cum nova de partibus borea-"libus sunt allata de capcione Cattelli de Berwico per Sco-4 ios, cujus custodiam Comes Northumbrie, dominus Hens Gicus Percey avito jure polledit. Soni namque medianete recunia, de quodam qui secundarie castri custodiam "runc habebar, incroitus cartelli dolole nacti funt. Fa-" Aum eft ergo Duce procurante Johanne (ut dicirir) ut pro perditione dicti Castelli regalis Comes Junicium qui aberani Dytimatum et regis fententiam vammationis " exciperet in sum publice promnigatam, Cujus execu-" tionis vindicta per regem polica cito relaxata fuit quam-" vis id Duci (ut dicierr) difpliceret. Acts funt hec,14 "die Decembris in endem Paffiamento, non obitante "quod idem Comes ad dictum Parliamentum vocatus fu-"erat per breve region, et ad cultodiam the patrix mora-"ri maluiffer. Hæe ideisee caufs inter folam Ducem et "Comicem postea ira et odii fomicem minitravit.

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(f) Walfingh. P. 334, 335. Ypodigma Neuftr.p. 141

At the Parliament heldat (f Salitburg, an Irish Frier H.ft. Anglia, Carmelice delivered a Schedule to the King's contening divers creacherous plots and Treatons against him by the Dake of Lancaster, that he had resolved sodainly to kill, oppresishe King, and seife upon the Kingdom; fetting down the time, places and all other circumstances; taking his Oach up. on the Sacrament of Christs body thus every word commined in that Schedule was true : additing the King not to believe the Dokes excules, nor to defert his judgement; felt he frould raife forces against him to effect his delign, or be deceitfully recordited to him. The King hereupon being young, NON DOMINOS, NON PARES REGNI Super

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fuper tantis negotiti que discernarens quid m tal: articulo avendit En fullit; but two Clerks of his Chaptel his accustomed Counfellors: whiles the King and they were privately debating the business, the Duke came in unto them; whom the King beholding with a ffern countenance, and not receiving him with that honour as formerly; he fulpecting the King conceived something in his mind against him, withdrew himfelf: But by the Chaplains advice he' was called in again, and the Schedule delivered him to read. Which having read, he faid with a great figh to the Heu Domine mi, cur fidem datis talibus dela "toribus? Cur de mea persona talia opinamini? Nonne from avunculus veffer? Nonne tutor extiti? Nonne pott "vos principalis in regno? Quid mihi forderet vos prodere, vel certe necare qui nitil lucri reciperem de vertra "morte? Nunquid hoffes vensi me diciorem facerent in dierra fua, quam effectus fum in terra veltra, et in narali folo? Aut fi regnum affectarem ereden du nne elt polt vettram in erfectionem (quod abfit) Dominos buins " Regni aquanimiter ferre me pole Domini met et pa-"triz prooftorem ? Dehitere (in placet ; tidem vare ta-" na reierentibu, quia paratus lum, more militis, cort'a " quemeunque mundi mihi in hac causa adversantem pug. "nare, et meam innocentiam defendere et purga'e. Upon which and other words, the King believed the Duke and received his excuses: and committed the Frier at his request to the Cuttodie of the Lord John Holland, " nique "ad diem quo causam diceret horum qua praposcerat. " contra eum. In ipfa no le que procettic diem fue re-" sponsionis, the Frier was strangled and pressed to death by the faid John and another Kuight, and the next day his dead corps was drawn through the fireet like a Traytor, to take away the fulpition of his unjust death. " Ich indices, iph ministri, iph tortores extiterunt. Et hic c fructus Parliamenti pratentis, prater hoc, quod dominus & Willelmus la Zouche, quamvis gravissima detinerrive a zetirudine accerfitus erne ad Parliamen:um, at fans " omn juoicio Regis et Dominojum, ! quia idem tracet " cum

"eum, veiut inventorem, inceptorem, et incentorem "dixerat omnium quæ scripserat extitisse: Qui cum ve-" nisset lectica delatus, quia propter guttam equitare non "poterat, compulsus elt discinctus, et discooperto capite "ad hac omnia sibi objecta, more latronum vel prodi-" torum respondere. Qui viriliter negavit objecta; Sa. "cramen: o firmans, hac nunquam audisse, vel hujusmodi cogitaffe, et ita demum absolutus est, et domum redire ce permiffus.

* An Exact P 299,300.

In this " Parliament holden at Salisbury 7 R. 2. rot. abridgement, Parl. n. 11. to 16. John Cavendish a Fishmonger of Lon. don, made his complaint first to the Commons, and after to the Lords, against Sir Michael de la Poole Chancellor of England, demanding the Peace against him; which THE LORDS granted : after which he accused him for taking Bribes, and delayes and injustice in a sute of his depending before him: whereof he cleared himself by his own Oath, and the Oaths of other witnesses sworn. and examined before THELORDS: Whereupon the Lords being troubled with other weighty matters, referred the Chancellors reparation for the Scandal to the ordering of the ludges.

(g) an Exact abridgement p. 315, 316.

The same Sir Michael do la Pole Earl of Suffolk, and Chancellor of England, in the Parliament of 10 R. 2. rot. Parliamenti, n. 6. to 18. was accused in full Parliament before THE KING BISHOPS & LORDS by the Commons who exhibited fundry Articles against him, recor-

Parliament

(i) De Even-ded at large by (h) Henry de Knyghton ('agreeing with tibus Ang iz, the Parliament Roll.) The effect of them was this; That 1. 5. c. so.col. whiles he was Chancellor, against his Oath, to procure 2680, to 2685, the profit of the King; he had purchased lands and tenements of the King of great value at under rates, and exchanged uncertain customs and rents for good lands, in deceipt of the King; and for spending the Aids granted to the King the left Parliament, to guardihe Seas, in another manner than they were granted; whereby the Seas were not guarded, and much mischief hapned to the Realm, &c. The Lords & Commons refused to act any thing till the King came in person to Parliament, and the Chancellor removed upon these Articles.

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The Chancellor demanded of the LORDS 1. Whether he (hould answer these Articles without the Kings presence, for things done whiles be was Chancellor, for that he being Chancellor of England for the time represented the Kings perion (in Parliament) during his absence thence; Secondly, Whether his Brother in Law Sir Richard Scroope might not answer for him, whom he had by advice of his Counsel, appointed to do it? To which the LORDS answered and resolved, It was honest and fit for him to answer for himself: Whereupon he making protestation, that he might adde to, or diminish from his answer, and that which might be honourable to him by advice of his Connfel; the Lords granting thereunto: He thereupon put in an answer and replication to all the Articles; to which his Counsel added fome things in making his detence: The Commons replyed to his answers to weh he by way of rejoynder replied and answered to them, his defence f. eming very folid: Yet the Commons upon his replication before judgement, pressed the King then being in Parliament, and she Lords, that he might be committed for the grievous offences charged against him. Whereupon he was arrested by the Kings command, and committed to the custody of the Constable of England, and after let to mainprise. Ar last THE LORDS in full Parliament GAVE JUDGEMENT A-GAINST HIM; That for breach of his Oath, all the Manors and lands which he had of the Kings gift, contained in the Articles should be seiseainto the Kings bands, to have them to him and his heirs for ever, together with their mean profits and iffnes, faving to him the name and Ticle of a Knight and Earl, together with an annui'y of 201. yearly, granted him out of the profits of the County of Suffolk. The like judgement was given against him for the lands exchanged by the King for the cultoms of Hull, and the Priory of St. Anthony, (i) Walfingham addes, That he (i) Ypodigm. was deprived likewife of his Chancellor (hip and adjudged wor- Neuftrize, p. 144 Hift Ang. thy of death; yet the Lords would not put him to death, p. 352, 353,

but 354.

but fent him prisoner to Windlore Cattle. Rex autem non multo rost annullavit quicquid in Parliamento statutum fuerat comra ipfum.

(k) an Exact

In the (k) Parliament of 11 R. 2. rot. Parl. p. 6, 7. abridgement, Thomas Duke of Gloncester kneeling before the King, faid, p. 321, 322 that he understood the King was informed, he went about to depole him, and to make himself King; Wherefore he offered to put himself upon his tryal in that behalf, as the Lozos of the Parliament would awara; Whereupon the King said in open Parsiament, that he thought the faid Diske was nothing faulty, and therefore keld him excused.

After which all THE LORDS, as well spiritual as remporal being in the Parliament, claimed their liberties and franchises, namely, That all weighty matters in the same Parliament, which should be after moved touching. THE PEERS OF THE LAND, ought to be difeuffed, FUDGED AND DETERMINED BY THEM, by the cour fe of Parliament, and not by the Civil Law, nor yet by the Common Law of the land, used is other Con ts of the Realm. The which claim and liberties the King most willingly. allowed and granted thereto in full Parliament. After which Thomas Earl of Glocester, Henry Earl of Derby, Richard Earl of Arundel, Thomas Earl of Warwick, and Thomas Earl Ma (hal, Lords Appellants, impeached Alexander Archbishop of York, Robert de Vene Earl of Ireland, Michael de la Poole Earl of Suffolk. Robert Trafylam Chief luflice, Nichelas Bramber Knight, and other of their adherents of High Treason against the King and his Realm.

The Articles they exhibited ag, init them were 36 in number, it large recorded in Henry de Knyghton de Eventibas Anglie, 1.5. col. 2713. to 2727. with the whole proccedings thereupon, for which many were attained, condemned, executed BY JUDGEMENT OF THE LORDS, notwithstanding the Kings intercession for some of them to the LORDS: they are likewise mentioned in

(i) Holinfied, Walfingham Hift. Anglia, p. 359 to 367, and other vulgar Truffel, Graft, Walfingham Hift. Angue, p. 359 to 307, and other vulgar Srow, Speed, (1, Hillorians: I shall therefore for brevity refer you to Faker, them . them. Exactum est juramentum a rege, ad standum RE-GULATIONI PROCERUM, et non solum a rege, sed a cunctis regni incolis, idem juramentum est expetitum.

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In the (m) Parliament of 14 R. 2.n. 14. The King and (m) Exact a-Lords (without the Commons) declared, That in the 7 bridgement, year of this King, the Earldom of Richmond, with the at-&c. p. 338, purtenances, WERE ADJUDGED BY THE KING 391, 392.

AND LORDS to be forfeited to the King, by reason of the adherence of John Duke of Britain, then Earl of Richmond, to the French, against his allegiance to the King, and his father king Edward the 3. which judgement was not then enrolled in the Rolls of Parliament for vertain causes known to the King and LORDS, but was now involled, and the lands granted to the Earl of Westmerland, which King Henry the 4th would not revoke upon the Commons Petition to restore them to the Duke, 1 H. 4.50t. Parl. n. 78.

In the Parliament of 17 R. 2. n. 11 Richard Earl of (n) Arundel, in the presence of the KING and (n) Exact 2. LORDS accused the Duke of Lancastre of 5 particular bridgement p. misdemeanors: In which when the King had justified 352. him; it was awarded by the King, BT THE ASSENTS OF ALL THE LORDS, that the Earl should in full Parliament make a formal submissions the Duke, and crave

pardon for his falle acculation. (o) Exact 2-(o) In the Parliament of 21 R. 2. rot. Parl. n. 12. to bridgement.p. 17. the Commons impeached Thomas Arundel Archbi- 368. shop of Canterbury of high Treason, for procuring the Duke of Glocefter and others there named to accroach to themselves regal power, and execute the Commission of 10 R. 2. when he was Chancellor; praying that he might bekent under fafe custody, with a protestation of making for her accusations during the Parliament against him and others. After which they prayed the King to give judgement against the Archbishop, according to his (o) Walfingdefert: who submitted him'elf to the Kings mercy : ham Ypodig. Whereupon the KING & LORDS and Sir Thomas Pier- p. 151, Hift. cy, (the general Proctor for the Bishops in this case) adjudged Angl. P. 392, the fact of the Archbishop to be Treason, and himself a 393. Traytor; and that thereupon he should be hanished, his

Ppz

temporalties feited, and all his lands in proper possession. or use, together with his goods forfeited to the King, and presenting the day and place of his departure into exile.

(p) An Exact abridge-3775378. Parliamento fuo, &c. anno 21 R. z. n. I. 10 36.

After this in the same (p) Parliament of 21 R. 2, the Lords Appellant therein named accused the Duke of Glo. ment, p. 376, cester, the Earls of Arundel and Warmick, and others of Placita Coro. High Treason, for procuring the Commission in 10 R. 2. næ eoram Do-for railing forces, and coming to the Kings person armed; mino Rege in For accroching to themselves royal power, and adjudging some to death, and executing them as Traytors in the Parliament of II R. 2. For intending to furrender up their Homige and allegeance to the King, and then to depose him; and saying they had good cause to depose him, Ge. Hereupon the Earl of Arundel being brought in cuf. tody to the Parliament before the Lords, by the Kings command and affent of the Lords, had his charge read and declared before him by the Duke of Lancafter Steward of England; to which he pleaded his pardon: which plea being disallowed, because his pardon was revoked by this Parliament, and he relying on it without any other plea, the Lords appellants prayed judgement against him, as convict of the Treasons aforesaid: Whereupon the Duke of Lancaster, by assent of the KING, Bishops, Earles', and LORDS, adjudged him convict of the Articles aforefaid, and thereby a Traytor to the King and Realm, and that he should be therefore hanged, drawn and quartered, and forfeit all his Lands in fee or fee-tayl which he had in the 10. year of this King, with all his goods and chattels. But for that he was come of Noble bloud, the King pardo. ned his execution of hanging, drawing and quartering, and granted that he should be beheaded: which was accordingly executed the same day on Tower hill by the (9) Walfing. Marshal of England. The 28. of September, the (9) Earl of Warwick was brought ao his Trial fin the same manner as the Earl of Arundel; who confessed all the Articles, submitted to the Kings grace, and had the same judgement pronounced against him in the fame manner as the

ham, Hift Anglia, P. 392,3930 podig. Neu-Ariæ p. 1572 3524

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Earl of Arundel. But the King at the Lords Appellants and others requests pardoned his execution, granted him. his life, and banished him into the Isle of Man. The Duke of Norfolk by attent and Act of Parliament, was arted in a Court Martial by the King, Lords and some Knights, for: words spoken against the King, and judgement was there given that he should be banished into Hungary, and his

lands forfeited to the King.

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Within one year after (fuch is the viciffitude of aller) An Ex: & worldly honour and power) in the (r) Parliament of Labridgement, H. 4. Plac. Coron. p. 1. to 11. at the prayer of the Com-p. 399,400, mons, the great Lords Appellants, Edward Duke of Al. 408. bemarl, Tho. Duke of Surry, John Duke of Exeter, John Marquess Dorfet, John Earl of Salisbury, and Thomas Earl of Glocester, were all questioned and brought to their several answers before the King and Lords for their Acts and proceedings in the Parliament of 21 R. 2. the records whereof being read before them in Parliamenr, they made their several answers and excuses thereunto: whereugon the King and Lords, after consultation thereupon, A D-UDGED, that the faid Dukes, Marques, and Earls (hould lose their several Titles and Dignuies of Dukes, Marquess and Earls, with all the honor thereunto belonging; and that they (hould forfeit all the Lands and goods which they or any of them had given them, at the death of the Duke of Gloceller, or since : and that if they or any of them should adhere to the quarrel or person of King Richard, lately deposed, that then the same should be Treason. The which Judgement was pronounced against them, by William Thurning, Chief Juflice of the Kings Bench, in Parliament, by the Kings command; but in the Parliament of 2 H. 4. rot. Parl. n. 33. upon the Petition of the Lords and Commons to the King, the Earls of Rutland and Somerfet were pardoned, and restored by the King in Parliament.

In the (f) Parliament of 2 H. 4. n. 14. the Bishop of (f) An Exact Normich, was accused by Sis Thomas Erpingham, the Kings abridgement, Vice-Chamberlain before the King and Lords, of divers P. 405, 407.

offences against the King; who taking the acculation to

be good because of the Bishops order, and that he was of the kingalinage; pardoned the faid Bishop, all his misprisions done against his person, and reconciled the Bishop and Sir Thomas one to another. And n. 30, 31. all the Lozos Tempozal (whose names are there recorded, being 25. in number) by affent of the King, declared and AD JUDGED, Thomas Holland late Earl of Kent, John Holland late Earl of Huntingdon, John Mountague late Earl of Salisbury, Thomas le Despencer, Sir Ralph Lumley Knighr, and divers others (who were for their Rebellions and Treasons, in levying war against the King, taken, slain or beheaded by certain of the Kings Subjects) to be Traptoza! and that they should forfeit all such Lands as they had in fee the 5. of January, the first year of the King, or at any time after, with all their goods and chattels: The Record is, Toutz les Seigneurs temporelz esteantz en Parlement, per affent du Roy declarerent, et adjuggerent les ditz Thomas, Ge. pur Trayteurs, pur la leve de Guerre en countre lour Setgnior le Roy, nient obstant gils furent mortz sur le d't leve de guerre fanz process de ley. Lo here the Lords alone by the Kings affent, declare and adjudge what is Treason, both in the case of Lords and Commoners too, and attaint and give Judgement against them both, without the Commons, after their deaths, without legal trial.

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* cook 3 Inment, p. 436.

In the (t) Parliament of 5 H. 4. rot. Parl. n. 11, 12, 13, 14. On Friday the 18 of February the Earl of Nor. Rir. p. 22. &c. thumberland came before the King, Lords and Commons in Parliament, and by his Petition to the King, acknowledged, that he had done against his Lawes and allegeance; and especially for gathering power & giving of Liveries, for which he put himself upon the Kings grace and prayed pardon; the tather, for that upon the Kings Leiters he yielded himself, and came to the King at York; whereas he might have kept him. felf away. Which Petition by the Kings command was delivered to the Justices to be examined, and to have their counsel and advice therein : Whereupon the LOR DS made a Protestation; que le Juggement appertient a eux tout soutement, THAT THE JUDGEMENT

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APPERTAINED ONLY TO THEM. And after the faid Petition being read and considered before the King and the faid Lords, as Peers of Parls ament, aus queux teils juggemertz af perteignem be book; to whom fuch Judgements appertained of right, having had by the Kings command. competent deliveration thereupon: and having also heard and considered as well the Statute made in the 25. year of King Edward the Kings Grand father that now is, concerning the Declaration of Treason, as the Statutes of Liveries mide in this Kings reign, AD JUDGED; That the which was done by the said Earl contained within his Perision, was neither Treason, nor Felony, but Trespas; for which the said Earl ought to make fine andransom at the will of the King. Whereupon the faid Earl most humbly thanked our Lord the King, and the faid Lords his Peers of Parliament for their right: full judgement, and the Commoners for their good affections and a ligence used and showen in this behalf; And the said Earl further prayed the King, that in affurance of these matters, to remove all jealousies and evil suspitions, that he might be sworn a-new in the presence of the King, and of the Lords and Commous in Parliament; and the said Earl took an Oath upon the Crosser of the Auchbishop of Canterbury, to be a faithfull and loyal liege to our Lord the King, the Prince his Son, and to the heirs of his body inheritable to the frown according to the Lams of England: Wherevoon the king out of his grace pardoned him his fine and ranfom for the trespals aforefaid. After which, num. 17. the Lords Spiritual and Temporal, humbly thanked the King, fitting in his royal Throne in the white Chamber, for his grace and pardon to the faid Earl of his fine and ransom: and likewise the Commons hanked the Lords Spiritual and Temporal, for the good and fust Independent they had given, as Piers of Parliament to the said Carl.

From this memorable Record I shall observe; First, that though this Declaration of this Earls case was made by his Petition in the presence of the King, Lords and Commons in Parliament, according to the Statute of 25 & 3. yet the Lords only by Provest asimum in presence of the King and Commons,

Commons, claimed to be the tole Janges oft, as Peers of Parliament; and belonging to them UF RIGHT. Second. ly, That this claim of theirs in this cafe, was acknowledged and (abmissed to both by the King and Commons : and there. upon the Lords only, after ferious confideration of the cafe and Statutes whereon it depended, gave the definitive fentence and judgement in this cafe; that it was neither Treason nor Petony, but Trespass only, &c. Thirdly, That the Earlshanked the King, only for his grace, the Lords for their full Jungement, and the Commons only for their good beares and diligence, having no share in the judgement, though given by the Lords both in the Kings and their prefence; and that the Commons themselves returned special chanks to the Lords Spiritual and Temporatin Parliament, for their good and just judgement. Fourthly, That this judgement of the Lordr only, was final and conclusive, both to the King and Commons, who acquiesced in it.

(t) Exact abridgement,p.

In the (1) Parliament of 2 H. 5. rot. Parl. num. 13, 14. Thomas Mountague Barl of Salisbury, fon and heir of John Mountague That Salubury, exhibited his petition in Parliament en reverle a judgement given against his faid father in the Parliament at Westminster in the second year of King Henry the fourth, ror. Parl. n. 30, 31. forecited, wherein amongst others he was attainted of Treason by judgement of all the Tempozal Lozos in Parliament : and ther upon he exhibited certain reverfals of Judgements given in Parliament, as making on his behalf, to the Lords consideration, reversed for some errors a sligged in those judgements; to wit, one judgement given against Thomas herecofore Earl of Lanciaster, b. fore King Edward the lecond at Ponifract, the Monday before the feast of the Amunication, in the fifteenth year of his reign : and arother Judgement against Roger de Morgmer, late Earl of March, in the Parliament of King Edward the third, the Monday after the fealt of St. Katherine, in the fourth year of his reign, at Westminster. Which Judgements being diffinctly and openly read. and fully understood; It fermed to the hing and Lords, that the vife of the death Peers of

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and execution of the faid John late Earl of Sarum, and of the judgement aforefaid against him given, is not, nor was like to the case of the executing of the said Th. heretofore Earl of Lancafter, nor to the case of the putting to death of Roger Earl of March, nor to any judgement given against the faid Thomas and Roger, as aforefaid; but that the judgement and declaration had and given against the faid John late Earl of Sa. rum were a god, just and legal Declaration and Judgement. Per quod confloeratum fuit in prafenti Parliamento per pardicos Dominos tune ibidem existentes, De affenta dier Domini noftri Regis , quod prafatus nunc Co: mes Sarum mibil capiat per petitionem, ant profecutionem fuam pradictam. Et ulterins tam Dominf Spirituales quam temporales supradicti , judicium et Declaratios nem gradicta versus dictum Joannem quondam (omitem Sarum, ut pramittitur babita five reddica De affenfu fpfing Domini Regis affirmarunt foze et elle bona, justa et legalia, et ea pro hujusmodi er abundanti decres (t) Exact A-berunt et adjudicarunt tuuc ibidem, (t) This is all bridgement, that is mentioned in that Parliament Roll concerning p. 139. this bufine fle.

SIr Edw Cook who hath an excellent faculty above all others I have yet met with, in militaking, mif-reciring, and perverting Records, and Law-books too oft times, which he had no leifure to perufe (which I defire all Lawyers and others to take notice of who deem all he writes to be Oracle, left they be seduced by him) in his 4 Institutes, p. 23. assimms with considence, That in this Rev. Parl. 2. H. 5. n. 13. Error was assigned (to reverse this judgement) that the Lords gave judgement without Petition or assent of the COMMONS; citing it to prove, that the COMMONS have a power of judicature, together with the LORDS. But under his fevour,

all either mentioned or intended in this Record; nor any one full this rending to that purpose.

aly. The Petition mentions no error at all in this judgement; but only remembers two prefidents of judge-

I cin affure ye Reader , 1. That there is no fuch error at

ment formerly reverted; the full in the case of Thomas Earl of Lancaster, in 15 E. 2. which judgement was given against him at Pomfret Castle, which was afterwarde reverted, as Sir Edward Cooke himfelf informs us in his 2 Infti utes, c. 7. p. 52, 53. in Paf. 39 E. 3. Coram rege, rot. 92. for this only reason, Qua contra Chartam de libertatibus, cum dictus Thomas fuit unus PARIUM & MAG. NATUM Regni, non imprisonetur, &c. nec dictus Rex Super eum ibit, nec super eum mittet, nifi per legale judicium PA-RIUM SUORUM, &c. tamen tempore pacis absque juramento, seu responsione, sen legale judicio PARIUM SUO. RUM, Oc. adjudicatus est morti. The other was the judgement given against Roger Mortymer in the Parliament of 4 E. 3. reverled for the like reason in the Parliament of 28 E. 3. n. 10, 11, 12. forecited, being condemned and executed by the Lords, without any arraignment, hearing, trial, or answer, against the Great Charter. Now these two Presidents are pointblank against this pretended error alleged by Sir Edward Cook, That the Lords gave judgement without the affent of the Commons, and it had been very improper for them to allege the reverfal of them for want of a legal tryal by their Beers; to prove that the Commons, who are no Peers, should have affented to the Earl of Salisburies judgement; and because they did it not, it was Error and reversible; These prefidents therefore might have minded him of his gross mistake.

3ly. The King and Lords upon consideration declared, and adjudged these two cases and judgements, upon perusal of them not to be like the case of the Earl of Salisbury, who being slain in rebellion, and actual war against the king, could not be personally arraigned and condemned, as the other two might, and ought to have been, and therefore the judgement given against him in this case by the King and Lords in Parliament, who were his Peers, was a good, just, and legal judgement, and no ways against the great Charter.

4ly. The Commons themselves in the Parliament o

13 H. 4. rot. Parl. n. 19. acknowledged this judgement to be good without their affents, by their Petition to the Kng that John Lumly whose Father was attainted of Treason by it (together with the Earl of Salisbury, might be restored to blood and lands (by Alt of Parliament, and the Kings grace) notwithst anding this judgement of Treason against them. Which the King; by affent of the Logos Spiritual and Tempozal, consented unto.

5/y. In the Parliament of 3 E, 4. n. 31, 32, this judgement was made void and repealed out of the Kings Grace, by a special act of Parliament, and the heir restored, but the judgement not reversed for any Error.

6ly. Had there been any fuch Error assigned, as is alleged; yet the King and Lords, upon solemn debate and deliberation, over-ruled, and adjudged it to be no Error at all (as he precends it) and thereus on abated the Petition, and adjudged the judgement and Declaration given by the Lords alone, with the Kings affent, in 2 H.4. (without the Commons Petition or affent) to be GOOD, JUST, AND LEG AL, reconfirming it a new on Record as fuch: Therfore it was a gross overfight in him to assign and print it as an Error, and a Prefident of the Commons House, or both Houses power of judicatures together: when as it is a most nudeniable double Parliamentary resolution, of the Lings and Lozds fole right of judicature, g of their vecla. ring and judging in Parliament what is Treaton, and what not within the Statute of 25 E.I. without the Commons affent or privity, and an unanswerable refutation of his fole opinion to the contrary in his 3 Institutes, c. 2. p. 22. which he opposeth against not only these two Parliamentary resolutions, but likewise against 5 H. 4. n. 11, 12. 15 and 17 R. 2. rot. Parl. n. 20. there quoted by him. By this you may judge how little credit is to be given to Sir Edwards quotations and authority, in mitters concerning Parliamentary Judgements and Records.

In the Parliament of 28 H. 6. rot. Parl. n. 14. to 53. * Ex2& A-The Commons generally accusing William de la Pool Duke bridgement. of Suffelk to the King and Lords, he thereupou required p. 641, 642,

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of the king, that he might be specially accused, and heard to answer to that which many men reported of him to be an untrue man, making therewith a protestation of his manifold good fervices in the wars, and as a Privy Counfellor for fundry years; and so asking God mercy, as he had been true to the King and his Realm, required his purgation; The 26 of January the Commons required, that for this bis Confession he might be committed to ward. The Lords and ludges upon consultation, thought there was no good cause for that, unlesse some special matter were objected against him. The 28 day of January, the Speaker declared that the faid Duke (as it was laid) had fold the Realm to the French, who had prepared to come hither, and for his own defence had furnished Wallingford Castle with all warlike necessaries; upon whose request the (aid Duke was then committed to the Tower of London. The 7 day of February, the Commons by William Truffel their Speaker, brought up and presented to the King and Lords in the Lords House a Bill against the said Duke, containing an impeachment of several High Treasons committed by him against the King, requiring of the Lords all their Articles therein to be enacted, with profecution therein. The 9.of March they exhibited new arricles of complaint against the Duke, compriling fundry mildemeanors against the king, and other persons; which they require might be enrolled, and that the Dake might answer to them. The 9. of March the Duke was brought by the kings writ from the Tower into the Parliament Chamber, before the King and Lords; where the Asticles were rehearled to him, who defired Copies of them, which was granted: And he for more ready answer was committed to certain Esquires, tobe kept in the Tower, within the kings palace. The 14 of March the Duke appeared before the K.& Lords where on his knees he denied as untrue the 8 Articles of Treason, and the same offered to prove, as the King (hall appoint.

The Chief Justice thereupon by the kings command, asked this Question of the Boyds, what advice they would give the Hing, what is to do further in this matter?

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which advile was deferred till Monday then next following; whereon nothing was done in that matter. On Tuelday the 17 of March, the king fent for all the Lords Spiritual and Temporal then being in Town (being 24 in all) into his Inner Chamber within his Palace of Weltminster, where when they were all affembled, he then fent for the Dake thither; who coming into the Kings presence, kneeled down, and continued kneeling till the Chancellor of England had delivered the kings command to him; and demanded of him, what he faid to the Commons Articles, not having put himself upon his Peerage? Whereupon the Duke denied all the Articles touching the kings Person, and state of the Realm, as false and scandalous. And so not departing from his said Answers, submissed himself to the kings Rule and Governance, without putting him-(elf upon his Peerage. Where thus the Chancellor told him. That as couching the great and horrible crimes contained in the first Bill, the king holdeth him neither declared nor charged. And as touching the fecond Bill, containing misprisions which are not criminal, the king by force of his submission, by his own advice, and not reporting him to the advice of the Lords, nor by way of judgement, for he is not in place of judgement, puttethyou to his Rule and Governance; that before the first of May next coming, he should absent himself out of the kingdom of England, and all other his Dominions, in France, or elsewhere, and that he, nor no man for him, should shew or wait any malice, nor hate, to any person of what degree soever of the Commons in the Parliament, in no manner of wife, for any thing done to him in this Parliamen or elsewhere. And forthwith Viscount Beaumont, in behalf of the faid LORDS both Spiritual and Temporal, and by their abbice, affent, and beffre said and declared to the Kings Highness; That this that so was decreed and done by his Excellency . concerning the perfon of the faid Dake, proceeded not by their ablice and Counfeld: but was done by the Kings own demeanour and rule. Wherefore they belought the King that this their laying might be enacted in the Parliament Roll for their more beclas ration hereafter; with this protestation, that it sould not be, not turn in prejudice not derogation of them, their:

their heirs, ne of their fuccesors in time coming; but that they may have and enjoy their liberty, as they, or any of their Ancestors and Predecesors had and enjoy-

en befoze this time.

This is the tum of this large Record, which makes nothing to the purpole for which Sir Edward Cook cites it in his 4 Instumes, p.25. That it is ERROR when both Honfes joyn not in the Judgement. For first, here is nothing but an impeachment only by the Commons of a Peer, who ought to be tryed, judged only by his Peers, not by Commoners. Secondly, there was no judgement given in Parliament in this case, but only a private Award made by the King, out of the Parliament House in his own Chamber, in prefence of the Lords. Thirdly, the Lords entred a special protestation against it, as not made by their advice or consent. Fourthly, they enter a special claim in the Parliament Roll, for the preservation of their Right and Freedom of Peerage for hereafter, both of being tried and judged only by their Peers in Parliament; and so an express resolution, that the Peers in Parliament are and ought to be Judges, especially of Peers, not the Commons. Records of these cited at large, lest Sir Edward Cooks brief quotation and mif-recital of them should deceive the credulous or ignorant Readers.

(x) Exi& abridgement.; p. 653. In the (x) Parliament of 31 H.6. rot. Parl. n. 28. Thomas Earl of Devonshire, was accused of Treason, tried for, and acquitted thereof by his Peers, before Humfrey Duke of Buckingham, Steward of England for the time being: And for that the Duke of Tork thought the loyalty of the said Earl to be touched; thereupon the said Earl protesting his Loyalty, referred himself to further Trial as a Keight should doe: upon which declaration THE LORDS is Parliament acquitted him as a loyal Subject.

(y) Edward Duke of York, with the Earls of March,
(y) Exact A- warnick, Salisbury, Rusland, John Lord Clinton, and obridgement, thers, were impeached and attainted by Judgement of the
670.671,676, Lords in Parliament, of High Treason, for raising forces and
levying war against King Henry the 6. and afterwards at-

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(z) An Exact In the (2) Patliament of I E. 4.n. 17. to 71. The abridgement, Duke of Exerer, Viscount Beamont, the Earls of Pembroke p. 670, 671, Wiles, and Devonshire, the Lords Nevil, Roos, Gray, Da. 672, 677, cre, Hungerford and others, were first attainted and con- 699. demned of High Treason by THE LORDS, and after by Bill, for levying warr against King Edward the fourth. The Duke of Somerfet, and others in the Parliament of 4E. 4. n. 28. to 39. and John Vere Earl of Oxford, with others in the Parliament of 14 E. 4. n. 34. to 41. were in the same manner for the same offence, attainted of High Treason, and their Lands forfeited. To prefermit all other Anainders of this Nature in cases of High Treason, in the reigns of Henry the 8. Edward the 6. Queen Mary, Queen Elizabeth, and King James, both in our English and Irish Parliaments, sormerly touched, p. 196, 197, 198 199. In (a) the Parliaments of 18,8 21 Jacobi, Sir Francis Bacon (a) Cooks 4 Viscount St. Alban, Lord Chancellor of England, and the 23. 3 loft. Earl of Middlefex Lord Treasurer of England, were impea tutes, p.148, ched, accused, convicted of Bribery, Corruption, and other mildemeanors, removed from their places, fined (Middlefex 50000l.) imprisoned, made uncapable of any Office, and thus censured by Judgement of the Lozds boule, as the Journals of those Parliaments inform us. In the Parliament of 2. Caroli, the (b) Duke of Buckingham im- (b) See my peached the Earl of Briffol, and the Earl of Briffol impea- of Darkness ched this Duke before the Lords, in fundry Articles, for brought to divers misdemeanours touching the Spanish match, King, publike light, Prince, to seduce him in his religion, praying judgment of the Lozos thereupon against each other. In the Parliament of 3. Caroli, the Duke of Buckingham was accused and Impeached by the Commons before the Lords for fundry high Misdemeanors, and the Parliament thereupon distolyed to prevent his censure. (b) See his

In this very Parliament of (c) King Charls now fitting, Impeachment Mr. John Pyme Speech, and Mr. Oliver St. Johns argument at Law, at his Trial and concerning his Bill of Artainder, 12 April 1641 >

Tho-

Thomas Earl of Strafford was accused and impeached by the House of Commons of High Treason, and other mildemeanors, comprised in fundry Articles, which they transmitted to the House of Lords, desiring that he might be put to an wer them, and such proceedings, examination, trial and judgement thereupon had and given against him by the Lozos, as is agreeable to Law and Justice. Hereupon he was openly tried in Westminster Hall, before the House of Lords, there sitting as his Judges, where the House of Commons profecuted and gave in Evidence against him fundry dayes; and in conclusion, demanded the Lozos to gibe Judgament against him, in the Judicial way, which they proceeded against him by way of Bill; not to decline their Lozoffps Juffce in a Indicial way ; but to husband time, by preventing some doubts, and as the speediest and soonest way: Upon the passing of which Bill, he was beheaded and executed as a Traytor.

On the 26 of February, 1640. William Land Archbi-

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(c) See Mr. Lynns Speech, thop of Canterbury, was accused and impeached of High & My Canierburies.

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Treaton by the House of Commons of 14. Articles then transmitted by them to the House of Lord; The first Dooms p. 25, whereof was this; That he had trayteroufly endeavoured to 26,27,28. 48, subvert the fundamental Laws and Government of the Realm, and instead thereof, to introduce an Arbitrary and Tyrannical Government against Law : And the last of them, this: That he had laboured to subvert the rights of Parliament and the ancient Course of Parliamentary proceeding (which the New-modellers of our Parlsaments, more guilty hereof by many degrees than he, may do well to confider :.) Upon which they prayed, from the Lords such proceedings, examination, trial and Indgement squinft him, as is agreeable to Law and Justice. Upon these Arricles he was brought to a publike Trial in the Lords House the 12. of March, 1643. and after 17. whole dayes spent in his meer Trial, and proof of the Charge against him, and his defence thereto morning and evening; and several other dayes spent in the hearing of him and bis Council, and the Commons Reply couching his Charge and the matters of Law, whether the · Charge

Charge proved against him amounted to High I reason; the 1 0205 upon most mature deliberation, voted him Guilty, of all the Articles and matters of fact charged against him, and alfo of Digh Treaton; and thereupon paffed an Ordinance for his Assumder; by vertue whereof he was beheaded as a

Traytor on Tower. Hill, January 10. 1644.

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To thele I might add the (d) feveral Articles of Impeachment transmitted by the House of Commons this (d) See My Parliament to the Lords, against Matthew Wien, Bishop of the English of Norwich the 20. of July 1641. against W. Mam Pierce Lordly Prela-Bishop of Bath and Wells; and against the Bishops of Win. cy to Regal chefter, Covenery and Litchfield, Glocefter, Chichefter, Exe. Monarchy,&c ter, St. Afaph, Hereford, Ely, Bangor, Bristol, Rochester, 279, 305, &c. Peterborough and Landaffe. August 4. 1641, requiring (uch proceedings from the Lozos sgainit them, as to Law and Instice shall appertain. All which are a superabundant impregnable Evidence of the Lords inherent Judicial power and right of Judicature in our English Parliaments, even by the Commons House own Impeachments and acknowledgements, against the Levellers pretences, to the con-

By all these forecited presidents it is most apparent : 1. That the King and Lords in our Parliaments in all ages both before and fince the Commons admission to fit and vote in Parliaments, have been the fole Judges of Ecclesiaffical Peers and Lords in all criminal cates, without the Commons. 2ly, That the Lords and Peers of the Realin, (except only in cale of appeal) both in and out of Parliamen, are triable only by their Peers : And therefore the Trial, condemnation and execution of any of them by Marshal Law, or new milnamed High Courts of Justice, by Commoners and others who are not their Peers, is most illegal, unjust, and nought elfe but murtber; as the (e) Par-(e) An Exact

liaments of 1 H. 4. rot. Parl. n. 45. of 1 E. 4. rot. Parl abridgement n. 18. resolve - and as it was adjudged in the case of Tho. p. 388, 670. mas Earl of Lancafter, Pasch. 39 E. 3. Coram Rege, Rot.

92. Wiles'. Cooks 3. Institutes, p. 52, 53.

Secondly, The next and main queltion now controverred 185, 186.

ted, will be ; Whether the King, & House of Peers, have any lunfull or fole power of Indicature in and over the terfins of the Commons of England, as well as over Feers; in criminal cunfes, mifdemeanours, offences, or broathes of their Barlia. mentary privileges; fo farr as to fine, imerif n. confare, judge or condemn them in any kind, without the House of Commous concurrent vote or judicature ?

This the ignorant fortish Levellers, Sectaries, Seduced by their blind guides, John Lilburn, and Overton) perempic. rily deny: the contrary whereof, I shall here infallibly make good, to their perpetual shame and refutation, by

unantwerable Reatons and prefidents in all ages.

(f) Page 163, 1. I have (f) already manifelted, " That the Parlia-164, 183, 184, "ment being the supremett Court of Judicature in the "Realm, must confequently have a lawfull Jurisdiction "over all persons and members of the Realm, whether " Spiritual or Temporal Lords or Commons, in all crimi-" nal and civil Causes proper for Parliaments to judge or "punish; That this power of judicature was originally "and primitively vested in the King and Lords alone, be-"fore there were any Knights, Citizens, Burgefles or

"Commons fummoned to our Parliaments; (as is evi-(g) Here, p. dent by g)the antient writers Glunvil, Bratton, Fleta, Horn, 30, 31, 33,34. the Parliament of Clarindon, Anno 1164. and other forecited authorities;) and never transferred by them to the House of Commons upon or after their admission into our Parliaments, but remaining intirely in the King and Lords as at first; as the whole House of Commons acknowledge upon record 1 H. 4. rot. parl. n. 79. Therefore they may lawfully exercise this their judicial power and jurisdiction over the Common its of England in all fuch caules now, and hereafter, and that of right, as this record resolves they may do, in positive terms.

> 2'y Our Hittories, Law-books and Records agree, that in ansient times, our Earlis who were called Comites, or Coints from the word County, had the chief Government and Rule of most of the Counties of this Realm under our King, and that they, and the Barons were the proper Judges

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of the Common people, both in criminal and civil Cautes in the Tourns, & County-Courts; even by vertue of their Dignities and Offices, as our Sheriffs are now; in which Courts they did instruct the people in the Laws of the Land; and administer Justice to them in all ordinary Civil and criminal causes. For proof whereof you may peruse at leifure, M. Seldens Titles of Honour, Fart 2. c. 5. Sect. 5. Sir Edw. Cooks Institutes on Magna Charta, c. 35. His 4. Institutes, c. 53. the Laws of King Edgar, and Edward there cited. Spelmanni Glossarium, Tit. Comites, Mr. Lambards Archaion, f. 135. Horns Mirrour of Justices, c. 1. Sect. 2, 3. If then they were Judges of the Commons and people in every County, by reason of their Honours, Dignities, even in antientest times, in ordinary Causes; there is great right and reason too, they should be their Judges also in all their extraordinary causes, as well criminal as civil, even in Parliament,

aly, The Lords, Peers and great Officers of State, in respect of their education, learning, experience in all proceedings of Justice and Law, are more able, fit to be Iudges of Commons in Parliament, than ordinary Citizens and Burgesles (especially if chosen out of the Cities and Boroughs themselves for which they serve, as antiently they were, and still ought to be by the Statutes of 1 H. s.c. 1.32 H. 6. c. 15. and by the very purports of the writs for their election at this very day : & de qualibet Civitate Com. pradict. DUOS (IVES, & de quolibet Burgo DUOS BURGENSES,) who have better knowledg, skill in Merchandise, and their several Trades, than in matters of Judicature, or Law. Therefore the Right of Judicature was thought meet, even after the Commons admission to our Parliaments, to be still lodged and vested in the House of Peers, as before, who are the ablest and fittest of the two, rather than in the Commons House.

4ly, Since the division of the Houses one from another, (if ever they sate together, which cannot be proved) the House of Peers are disinguaged and indifferent parties between the King and Commons, and so sittest of all to

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be Judges between them, as the Mirrour of Justices, c. r. relolves so it hath been stil furnished with the ablest Timporal and Spiritual persons for their Assistants in judgement

(1) See Mo- and advice; to wit, with all the Judges (f) of the Realm. Barons of the Exchequer, of the Coyf, the Kings learned Coundus tenendi Parliamentum sel, the Masters of the Chancery, who are Civilians or Lawyers, Vowel, cowel, the Master of the Rolls, the Principal Secretaries of State, Crompton, and the Master of the Rolls, the Principal Secretaries of State, Sir Thomas with other eminent persons for parts and learning, and the Pio. Smith, Coke, curatores Cleri; all which are called by Writ to affift, and & others, 17 give their attendance in the upper House of Parliament, where E. 3. n. 23. they have no poices but are to size their counsel and advice on 2 1 E. 3. n. 7. they have no voices, but are to give their counsel and advice on-7 R. s. n. 30, ly to the Lords when they require their affiftance, especially in 31. 9 R. 2. n. cafes of Law and Judicature. For proof whereof you may 13. 2 R. t. pr. confult the Statutes of 31 H. 8. c. 10. The Regifter of 2. n. 27. 31 Writs, f. 261. Fitz, Nat. Brev. f. 229. a. b. M. Seldens 27, 28. 28 H. Titles of Honor, part 2.c.5. Sir Edw. Cooks 4 Inflit. p.4, 5, 6, 44, 45, 46. and the Parliament Rolls and Authori-6. n. 6. ties there cited by them, seconded by our present experi. ence. Now the House of Peers being thus affilted with

the advice of all the Judges of England, the Kings learned Counsel, and others ablest to advite them in all Criminal, Civil or Ecclesistical matters, cases that come before them: were in this regard thought sittest by our Ancestors, and the *Commons themselves (who have no such assistants) to have the principal and sole power of Judicature, in all civil and criminal causes as well of Commoners as

Peers, that are proper for the Parliaments Judicature by way of censure or redress.

See the FreeSly, There can be no judgement given in any of the holders Grand Kings Courts in Criminal causes, but where the * King is Inquest, p.25, personally or representatively present, fitting upon the Tricokes 4 Instite. bunal, and where the proceedings are Coram Rege. And c. 1, 5, 6, 7, 2, 10, 11.

Therefore in the end of most antient Parliament Rolls, we are find the Title of * Plaoita Corome, CORAM DOMINO abridgment, REGE IN PARLIAMENTO SUO, &c. as in 4 E. 3.

P.377. 399. 21 R. 2. 1 H. 4. and other Parliaments. Now as the Kings person is represented, Judgements given, Justice executed, in all Criminal and Civil cases in the Kings Bench,

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Bench, Eyres, Goal Deliverses, Oye s and Terminers, and all his other Courts, by his Judges and Justices. in his abfence; So is it represented in our Parl. in the Loyds house by his Commissioners and the Lords, and Judgements giver, Justice executed by them in al criminal & civil causes; and no ways by the Commons, who neither sit, nor judge in the House of Peers. Therefore the House of Peers only, not the Commons, are the true and proper judicato y; where the King the supream Judge sits usually in Person, and almayes in representation in his absence.

6!y, There can be no legal trial or Judgement given in Parliament, in Criminal causes or others, without examination of witnesses upon Oath, as in all other Courts of justice. But the House of Peers alone have power to give, and examine witnesses upon * Oath; and the whole House 7 R. 2. par. of Commons no such power, but to take Informations without 2. n. 14. 1 R. Oath, which neither they nor their Committees can admia. 2. n. 31. 32. 4 nister, unless by special Order and Committion from the King or Lords: Therefore the power of judicature in Parliament, even in Commoners cases, is inherent only in the House of Peers, and not in the Commons House.

7ly, It is a rule both of Law and justice, * that no man can be an informer, profecutor, and judge too of the perfons . Littleton, profecuted, & informed against is being contrary to all grounds fect. 212. Coke of justice : therefore he ought to complain and petiti- ibd. 4 E. 3.7. on to others for Justice. But the Commons in all angient H. 4 8. 2R.2. Parliaments, and in this prefent, have been informers and 29. 5 H. 7, 8. profecutors (in nature of a (1) Grand Inquest, to which Bro, Chalfome compare them, being summoned to nall parts of the leng. 23,42, kingdom to prefent publike Grievances and Delinquents to the (1) Cokes 4. King and Peers for their redress) and thereupon have al I fitt. p. 24. wayes peritioned, complained to the King and Lords for " 50 E.3. n. 5: Iuffice against all other Delinquents and offenders in Par. 1937, 21 R.s. liament, not judged them themselves: witness their ma- 28 H 6 n. 14, ny impeachments, accusations, complaints sent up and to 52. 31 H 6. profecuted by them in former Parliaments, and this, to n. 47, 64 the Lords, not only against Peers, but Commoners, of which 38 H. 6. n.32. there are hundreds of presidents this very Parliament:

Therefore

Therefore the House of Lords hath the proper right of indicatory veiled in them, even in Cases of Commoners. not the Commons; who are rather Informers, Polecusors, and Grand fury men, to inform, impeach, than Judges to hear, censure, determine and give judgement, as is re-

Sly. Those who are proper Judges in any Court of Ju-

solved in I H. 4. n. 79.

flice, whiles the cause is judging sit in their Robes, and 2, 10 R. 2, c, that covered, on the Bench, not fland bare at the bar; fweat and examine the witne fes in the caufe, not produce them 3. 6 R. 2. C. 5.14 H. 6.c.3. or manage the evidence; and when the cause is fully 8 R. z. c. 3. z heard, argue and debate the bufinelle between them-K. 2. C. 10, selves, and then give the definitive sentence. But in all cases that are to be tried and judged in Parl. the Lords only fit upon the Bench, and that covered, and in their Parliamentary Robes the badges of Judicature; but the Commons stand and that bare at the Bar, withour any robes at all: the Lords only swear, examine the witnesses, and judge of their tellimony; the Commons only (u) produce the witneffes, presse and manage the evidence; and when (u) Coke 4 the but nelle is fully heard, the Lords only debate the Inftit. p. 24. cause among themselves, and give the final Sentence,

> Piers. Therefore the Lords and House of Peers are sole Judges in Parliament, not the Commons.

9ly. The Commons themselves in all ages fince admitted into our Parliaments, have always presented their Petitions in Parliament to the King and Lords alone, for redreis of all Grievances, wrongs,m: fdimeanours, abufes whatfoever, publike or private, criminal or civil, ecclefiastical, marine, or military: And the Lords House alone have in all antient Parlaments appointed particular persons of their House to receive al Petitions, Triers of them to hear and answer Lords, Parli- them by their advice, and the kings affent, when necessary; which Triers of Petitions had power given to call the Lord Chancellor, Treasurer, Chamberlain, Judges, kings Servants, and others to this affiftance, prescribing where, when their Petiti-

Indgement without the Commons, (though sometimes in their presence) and that both in cases of Commoners and

* See an Exact Abidgement of the Records of the Tower, & the Table to to it. Tit. Commons, aments Petitions, Cooks 4. Inft. p. 16.

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their ctiti. . Peritions (hould be prefented, ex : mined, redreffed, as all our Parliament Rolls attelt, and Sir Edward Cook him felfrelates: There being few or no Petitions at all presented by any to the Commons before 11 H.7.c. 19.8 4 H.7.c. 6. These Petitions then presented to them, and all everfince, with all in this present Parliament, being only to this and, that they upon the examination of the truth, matters, complaints, gii vances mentioned in them, might transmit and represent them in the name of the Commons House to the Lords House, for to give, full redreis reilif, and judgement on them to the Petitioners; not for the Commons themselves to judge, finally determine them, or give relief upon them without the Lords; as all the transmissions of private and publike Peritions by the Commons to the Lords, heretofore and in this Parliment, in the cases of Dr. Layton Dr. Bastwick. Mr. Burton, Mr. Walker, my felf, and of Lilburns own Petition a. See here, p. gainft his cenfure, atteft. Therefere the Judicature of 46, 47. our Parliaments, must wholy rest and intirely reside in the Lords House, as well in all Criminal as civil cases, both of Commoners and Lords.

1 oly. The furest badge and highest evidence of the right and exercise of Juridical, and Judicial Authority in Parliament, is the examination, affirmation, control, repeal, nulling, adjudging, and finall de ermining all Errors in Judgemente, Decrees, Proceedinge, & all Milprisions, Abuses, Corruptions, grievances whatsoever of Judges, Juitices, in all other Courts of Juffice, Civil, Ecclefiattical, Marine or military; Nowthe Lords alone in Parliament, upon Wtits of Error, Appeals, Complaints, Peticions, &c, examine, confirm, repeal, null, redresse, and finally determine all Errors, misprissions in Judgements, Decrees, Proceedings, and all Abuses, Corruptions, Grievances wha foever, in all other Courts of Intice ; whether Civil, as the Kings Bench, Chancery, Exch quer Chamber Common Pleas, Exchequer, Court of Wards, Court of Requests, Stanneries, &c. or Ecclesialtical, as the High Commission, Archbishops, Confisiories, the

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Convocation, and the Admiralty, Court Marshal, Coun. cil Table, Star-chamber, and in former Parliaments, as is evident by fundry prefidents in former ages, and in this present Parliament of King CHARLS in the cases of Dr. Layton, Dr. Bastwick, Mr. Burton, Lile .burn himself, Mr. Grafton, Alderman Chambers, Mr. Rolls, Sir Rob. How ard, Alderman Langham and Limry, Mr. Johns, and le Gay, with fundry others: But more especially in cases of Writs of Error brought in Parliament by Peers or Commoners, upon any Erronious judgements touching their real or perional citates, lives, limbs, liberties, perfons, upon Indicaments or Artainders, In all which writs the King and Lozds only are fole judges (without the Commoners) and the returns of the proceedings upon fuch Writs are only before the Lozos in the Upper House, secundum legem et consuetudinem Parliamenti: 50 Sir Edward Cook himself expressly resolves in direct terms, in his 4 Institutes, p. 21, 22, 23. And 22 E. 3. 3. Fitz Error 8 Br. 3. 1 H. 7. 20, 21, 22. Br. Error, 137. Old Book of Entries, p. 302. 16 E. 3. Fitz. Brev. 651. 21 E. 3.46. Br. Error, 65. 29 E. 3. 24. 39. Aft. 18. 42. Aft. 22.7 H. 6. 28. 8 H. 5. Fitz. Error 88. 19 H. 6. 12. 35 H.6. 19. 37 H. 6.16. 11 H. 4.65. 9 E. 4.3. 2 R. 3. 22. 37 H. 8. 14, 15, 25. Dyer, f. 62. 196, 201, 315, 375. incimate as much. This is most clear by the Writs of Error, Judgements and Proceedings on them in the Parliament House, before and by the Lords alone mentioned in the Parliament Rolls themselves, as 14 E. 1. rot. Parl. 1.4 E. 3. D. 13, 14. 21 E. 3. D. 65, 66. 28 E. 3. D. 8.10 14. 50E.3.n. 38. 1 R. 2, D. 28, 29, 105. 2 R. 2. D. 31,

* Exact abridgement,
p.66.85, 86,
14. 50 E. 3. n. 38. 1 R. 2. n. 28, 29, 105. 2 R, 2. n. 31,
133, 156, 164, 32, 33, 37, 38. Parl. 2. and Parl. 1. n. 21, t0 27, 3 R.
176, 177, 168, 2. n. 19. 20, 21, 22. 6 R. 2. n. 17. 7 R. 2. n. 20, 21. 8
189, 282,
190, 301, 304,
230, 331, 543, 23, 24, 16 R. 2. n. 17, 18. 17 R. 2. n. 17. 19. 18 R. 2.
244, 348, 352, n. 11, 12, 13. 20 R. 2. n. 26. 21 R. 2. n. 25, 55. to 66,
35335, 363, 371. 1 H. 4. n. 91, 92. 2 H. 4. n. 38, 39, 40. 4 H. 4. n.
369, 372, 373, 26. 5 H. 4. n. 40. 6 H. 4. n. 31. 1 H. 5. n. 19. 2 H. 5. n.
393, 408, 418,
130, 144. 3 H. 5. n. 19. with fundry Writs of Error in succeeding

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ceeding Parliaments, and this now fitting, adjudged, determined by the King and Lords alone, without the privity or interposition of the Commons. A truth so clear, that Lilburn himself in his Argument against the Lords inrisdiction, confesseth it. If then the Lords House, be the fole Judges in all Writs of Error, and Appeals from all other Courts of Justice, concerning the Lands, Tenements, Goods, Estates, Liberties, Members, Lives, Attainders of all English Freeholders, and Commoners what soever, notwithitanding the Statute of Magna Charta, ch. 29. No Freeman (hall be taken or imprisoned, &c.neither will we pass upon him nor condemn him, but by the lawfull judgement of his Beets, &c. (the grand and principal objection against the Lords Judicature in Cases of Commoners) then by the felf lame reason they are their lawfull Judges, and may legally proceed against them in all other criminal or Civil causes, especially in cases of breach of their own Privileges, wherein they are the fole and only Judges; fince no other Court can judge of, nor yet punish them, as Sir Ed. Cook resolves, being properly triable only in Patliament (as contempt against all other Courts, are punishable and triable by themselves alone) the present cales of Lilburne and Overton.

Now that they are and alwayes have been so de fallo (unless by way of Bill of Attainder, or in such extraordinary cases when their concurrence hath been desired) even in criminal cases, misdemeanors and offences of Commons as well as Peers, I shall prove by most clear and infallible evidences and presidents as well antient as modern,

Our Noble King Alfred, as he (a) "ordained for the (a) Cooks t
"good estate of the Realm, that the Earls and Noble Institut, filto a,
"thereof, by a perpetual custom, should twice every
"year, or oftner, in times of Peace, assemble together
in Parliament at London, to govern the people of Eng"lana, and keep them from sinne, as Andr. Horn informs
"us in his Mirrour of Justices, c. 1. p. 10. So the same
Author records, c. 5. p. 296, 297, &c. "That this royal

(b) Cooks ?

Inftic. p. 224.

Juticiary (who took a short account each year of all his Judges proceedings in his Parliaments) "condemned "and hanged up in one year about An. 800 as I conjecture) "no lesse than (b) 44 of his Judges and Justices, as "Murderers, for executing his Subjects and putting them to death against Law, without any legal cause or sufficient evidence, or tryal, by a Jury of their Peers: and "imprisoned, fined," punished others of them, in the self-same kind as they had injuriously imprisoned, fined and punished his Subjects against Law: and that no doubt by the advise and assert of his Nobles in Parliament, upon complaint of their injustice and corruption; the proper Court for punishment of such Offenders, whose names and causes (recorded at large by this Author) shew them to be all Commoners and no Peers of the

(c) Walfing (c) Anno 1096. William de Auce and William de Alde. ham Ypodig. ri were hanged for Treason against William Rufus, by judg-Neuftr, P. 02.

Neuftr. p. 933 ment of the Lords, in a Parliament at Salisbury.

94. Here, p. (d) King Henry the 2. Anno 1 1 66 holding a Council at 213.

(d) Mar. Paris, Oxf. quidam pravi dogmatis seminatores tracti sunt IN 3N-Hist. Angl. p. DICIUM, prasente Rege et Episcopis Regni; quos à side Catholica devios, et in examine superatos, facies cauteriata netabiles cunctis exposuit, qui expalsi sunt à regno. These Herecicks thus branded in the face and banished the Realm

by the judgement of the King and this Council, as (e) Nu(e) Rerum brigensis informs us, were above to men land momen who
Anglic, Hift.

1.2. c. 13. See Captain, stiled Publicans, who went about the Country to
Christian Ma- spread their errors; but at last being detected, they were
gistracy sup- apprehended and cast into prison; and then brought before
ported, P.51, the King, and a Council of his Bishops; where being convic-

ted ofHerelie, they were adjudged by the K.to be publikely whipped, branded in the face, and then banished the Realm. Hums severitatis pins rigor, non peste illa qua sam irrepserat Anglia recomm purgavit, verum etiam ne ulterius irreperationals havetieis serrore pracavit, as Nubrigensis observes.

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In the year 1124. the 8. of King Henry the 3. his reign, (f) the King requiring a restitution and resumpti- (f) Mar, Paris on of his Caftles and Lords detained from him by some P. 308, 309, Nobles and others, who at last for tear of the Bishops ex 310,318. Mat. communication against such as detained them, and disturbed 1224. P. 119, the peace of the Realm; and also of the Kings power and 1 27. justice, much against their wills, reddiderunt singuli Castella, et municipia, et honores, et cuftodias Regi qua ad coro . nam specture videbantur : Thereupon Falcatius de Breut, a Norman born, a Soldier under King John in the Barons wars, trusting on the Kings and other great mens favors, fortified the Caffe of Bedford, ficuated on another mans ground, and prefuming on his friends, and his own military power and wealth gained in the wars, he feared not violently and unjustly to take away the Freeholds, lands and possessions of divers of his neighbours, and more epecially he disseiled 52. Freemen in the Manor of Luiton of their Freeholds and Tenements without judgement, and appropriated their Common pastures to himself: Whereof complaint bing afterwards made to King Henry the 3. Anno 1 224. the King affigned Martin de Pateshulle, Thomas de Multon, Henry de Braibroc, and certain other Justices, to take the recognition of the parties complaining of these differing, by an A fife of Novel differin, and to do them Justice. Who having received their recognitions according to custom, the faid Falcatius was condemned to pay them costs and damages for the spoils done in the faid Tenements, to which the Plaintifs were judicially restored. Which Falcatius taking very impatiently, being likewise amerced one hundred pounds to the King for every of the faid Tenements, for his forcible entry into them; he in a great fury commanded his Garison fouldiers in the Castle of Bedford, to march armed to Dunstaple, where the Justices Itinerant sate and gave judgement against him, and to take and bind them in chains, and carry them to Bedford Cattle, and there detain them close prisoners in the Dungeon. The Justices having noticethereof, fled thence with all speed, some one way, SIZ fome

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some another; but Henry de Braibros thying, Was at unwares taken by the Souldiers, who used him very in-

humanly, then carryed him prisoner to Bedford Castle, and there kept him priloner. King Henry at that time was at Northampton, where he held a Parliamentary Council, Cum Archieps scopis, Episcopis, Comitibus, Baronibus, et aliis multis, de regni negotiis traft aturi : voluit exim Rex uti confilio MAGNATUM SUORUM de terris transmarinis, quas Rex Francorum paulatim occupaverat: but it happed otherwise than he hoped: For the rumor of this act of Falcatius being divulged, the wife of the faid Henry Brai. broc came to the King at Northampton; et andiente uniberso Concilto, de viro suo cum lachrymis * querulans aepo-Suit: Quod Rex fastum minus indique ferens; qualitit Confiltum a Clero amul et Populo (to wir, the Spiri. tual and Temporal Lords, Clerus Regni & Populus when fingle, being frequently used for the Lords Spiritual and Temporal, both in Matthew Paris, Hoveden, Bromton and others, not for the inferiour Clergy and Commons house, nor then in being, as some Antiquaries mistake) quit fibi super tanta infuria fozet agendum? At omnes una boce concilium Regi Dederunt, quatenus fine mora et omni. bus aliis pratermissis negotius in mann valida et armata ad Caftrum pradictum procedens, tantam temeritatem Aude at bindicare. Cumque Domino Regs placus fet SENTEN. 'IIA, ipso jubente omnes ad arma quam citius convolantes, ad castellum pradictum de Bedeford, tam Clerus quam Populus pervenerunt; The whole Parliament marching in person to execute this their Sentence upon these transcendent military Malefactors. Hereupon the King fending Messengers to the Commanders of the Caltle, required entrance to be given to him, and commanded Henry Braibroc his Justice to be rendered. But William de Brent, Brother of Falcatius, and the rest within it, answered the Messengers, that they would not render the Castle nor Justice, unless they had a command from their Lord Falcatius, and especially for this reason, quod Regi de Homagio vel fidelitate non sevebartur aftricti. With which aniwer the King being much

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as at un. very iniftle, and e wasat Council, et aliis uti conmarinis, hapned is act of ry Brai. ite unins aepoqualibit e Spiri. s when ual and ton and s house,) quio es una tomni. sata ad Audes TEN. dantes, m Poing in nicennding quired aibroc other effenunle s recialte non being

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much incented, commanded the Cattle to be prefently encompassed with military trenches; and those within prepared to defend their walls and Bulwarks : Then the Archbishop and all the Bishops with burning Tapers (mote Falcatius himself and all within the Castle with the (word of Excommunication: The King commanded all warlike engines to be brought, and gave many affaults to the Caltle to win it by force, hace they refuled to render it; many were flain and wounded on both fides. At last after many weeks fiege the Kings foldiers entring the Caftle by force, those within it being unable to hold out any longer, rendred themselves to the Kings mercy: who putting them in close custody and chains, commanded 24. of the Knights and Souldiers (who floured it most against him even when the fiege was ended) OUI OMNES SUSPENDIO ADJUDIC ATISUNI, to be hanged that day : Matthew Westminster writes, there were near one hundred of them hanged up. Henry Braibroc being then reflored to the King fafe and found, rendred him many thanks. In the mean time, the King fent an armed Troop to feek out and apprehend Falcains, and bring him prifoner to him: who having notice thereof fled into Wales for shelter: The K, thereupon swore, that if he took the Castle by force, he would hang up all who were within it; And withall feiled upon all Falcatine his Manors, Lands, Corn, goods and chartels throughout England, as conficated. At last Falcatins hearing that the Castle was taken, and his Brother and fouldiers hanged, came to the King to Bedford, under the con luct of Alexander Bishop of Coventry, and there calling himself at the Kings seet, humbly implored his mercy, in respect of the many great and coltly services he had done to his father and himself in time of warr. Tum Rex, per Confilium (of his Nobles and Barone) tradidit illum, Callellis, Terris et rebus omnts bus Spoliatum (ub custodia Eustichii Londoni intis E itcopi, donec quid de illo ageret effet fententialiter Definis sum. Et sic quasi in momento idem Falcatius de ditifismo pauperimus effectus multis et maxime nocemibus poterit fieri

in exemplum. Regi autem pro maximis laboribus et expensis (in the fiege of this Castle) tam à Clericis quam a Laicis concessium est per sotam Angliam Carncagium, de qualiber caruca duo folidi argenti. MAGNATIBUS item conceffit Rex scutagium, scilicet de scuto quolibet duas marcas sterlingprum: et sic omnes ad propria recesserunt. Castellum quoque illud fecit Rex complanari et redigi in acervos A most memorable example of regal and Parliamentary Justice upon infolent contemners of Law, Justice and Justices, the whole Parliament turning Souldiers, and continuing together at the Siege of this Castle above two Months space, till they had taken the Castle and Malefactors by force, and done execution on both. And an eminent president of the Ks.& Lords Jurisdiction in causes both of Commoners and Souldiers, as well as Peers and Nobles.

(g) Mat. Par. P. 785, 788, 793, 794.

(e) Henry de Bathonia, a learned Knight, most skilfull in the Laws of the Realm, one of the Kings Justices and special Counsellors, in the year 1251, (the 35 of Henry the 3.) was most grievously defamed and accused of bribery and corruption, in the Office of his Justiceship, wherein he feared not treacherously to empty other mens purfes, to fill his own, growing thereby in a short time extraordinary rich in Rents, Monies, Gold and Silver, being instigated thereunto by his wife; whereby adeo turpibus per fas et ne fas emolumentis inhiabat, ut in una sola itinaratione Justiciaria dicebatur, plusquam ducentas libratas terra sibi appropriare: Whereupon appellatus est de infidelitate et proditione, by Philip de Arci Knight, coram Rege et Curia Regis, And attached for to answer it. John Manfell the Kings Chief Justice profered to bayl him, and to be his Manucaptor, ut staret Justitia, but he could not be heard, the King being so incensed, that he anfwered he would take no Clergy-man for his bayl in such a case, reputing it to be HIGH TREASON; at last by the Bishop of Londons & others mediation, & intercession, he was bayled by 24 Knights, and delivered to their cu-Stody pro ipfo Henerefonfionem & justificationem rice , et judicial iter

judicializer statuto termino facturum. After which by gifts and large promites he earneally follicited his friends to intercede for him with the King, and procure his pardon; or elfe, if they could not effect it. to stand constance ly for him in the day of petil, armis, fi necesse ficut et equis community, which they by unanimous confent promiled to doe. The King being privily informed thereof majors iracundia accensus, omnia munera et verba reconciliationis precise refutabat, jurans quod per medium judicii districti necessario fuerat transcurus. Upon this, he by intreaties and gifts procured Earl Riebard to mediate to the King for him; adjungens sub tremendi judicii attestatione, quod fi Dominus Rex mortem suam, imo etiam exharedationem procuraret stotum regnum in ipfum Regem insurgeret, & tota perturbaretur; quad fi fieret, cum subsint alia cause, & maxime alienigenarum injusta dominationes, & Anglorum oppressiones, non sedaresur schisma ventilatum. The Earl herenpon most effectually interceded for him, and the peace of the Realm, but could not mitigate the Kings wrath and indignation. In Murch there was a great Paraliament held at London, where Henry was appointed to appear and aniwer; who came thither guarded with a great multitude of Souldiers of his Wives, and his own kinred and friends: Whereupon the King being highly incented, he was on every fide grievoully affaulted and acculed by his advertaries, and by the King more heavily than the reft; imponens eidem inter catera, quod tolum regnum perturbavit, et Barnagium universum contra ipsum Regem exasperavit : unde seditio generalis imminebat. Feeit igitur acclamari voce praconia Londini et in curia, ni fi quis aliquid babere actionis vel querela adversus Henricam de Bathonia, veniret ad euriam ante Regis prafentiam, ubi plene exaudirecur. Infurrexerunt igitur multi queruli contra cum, ita quod unus etiam fociorum suorum, scilieet Institurius palam protestaretur, quod unum facinerosum convictum & incarceration afine purmise impunitum, sine judicio, opimis respectus muneribus : quod factum oft in Regis prajudicimis. & Juftitiariorum comitum fuerum periculum et diferimen.

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Rex sgicur magis inde provocatus, ascendu superius, exclamavitque, dicens: Si quis Henricum de Bathonia occiderie, quietus fit a morte ejus , & quietum eum protestor : & fic propere resessit Rex. Et fuerunt ibi multi, qui in ipsum Henricum hoftiliter irruiffent, nifs Domini Johannis Mansel pradentia corum impetum temperaus, refranasset: Dixit enim, Domini mei et amici, non eft necesse quod in ir a prapripere dicitur , prosequamur. Panitebit forte dominum nostrum jam elap [o ira tempore bac imotniffe Praterea, fi aliquid violentia ipsi Henrico intuleritis, ecce Episcopus Londinensis. qui (piritualem , et alii amici ejus militares , qui vindictam exercebunt materialem , et sic in magna parte cessavit. Extune seitur procurante efficaciter Comite Richardo et Episcopa memorato, mitius actum est cum eo. Dictum enim est domino Regi fecretius , quod mirum eft, quod aliquis ei curat fervire, cum eis poft ministerium etiam mortem nititur inferre. Promissa igitur quadam pecunia summa, a mortis discrimine recessit liberatus. After which he paying to the King 2000 marks for a fine, and being reconciled to the King, ad Curiam est reversus, immemor laqueorum quos evaserat. Here we have, I. A corrupt Judge accused of bribery by others, and by the King of rebellion and fedition; and that before the Lords in Parliament. 2ly. A Proclamation for all that were grieved to complain against him. 3ly. A rash unjust sentence given against him by the King himself, for any man that would to kill him, with impunity. 4ly, the Lords opposition and contradiction of this fentence, and its execution as unjust and dangerous. 5ly. A remission of his sentence by the Lords mediation, and a fine imposed and paid to the King for his offences.

In the 40 year of King Henry the 3. at the Parliament anno 1265, P. held at Winchester, (f) divers Commoners, as well as 34. Mar. Paris Lords were attainted and condemned of High Treason, P. 967. for levying war against the King; their persons imprisoned, their lands and goods conficated, and the liberries of the City of Landon forfeited by Jungement of the West of in Rock by

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Anno 1290, (k) King Edward the I. held a Parliament (k) Walfingh. at London, at which time, " Rex auditis multorum que- Ypodig. Neuft. " remoniis, fere Justiciarios omnes de falfitate deprehen - P.72. Hist. " fos, a suo Officio deposuit, punienseos juxta demerita Parl, ao E. 1. "gravi mulca, " by the advice of his Lords in Parlia- f. s. Cooks 3.

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It appears by the Claufe Roll of 5 E. 2. m. 22. dorso, Holinshed, p. and Rot. Finium, 5 E. 2. m. II. in Schedula, that in a Parliament held at Stamford 3 E. 2. the Commons of England exhibited fundry Articles of complaint to the King: Amongit others; that they were not used as they ought to be by THE GREAT CHARTER, intaking Prifes and Purveyances without mony, &c. That the King by his Ministers took ijs. of every Tun of wine, and ijs. a cloth from Merchants aliens, and 3 d. pur aver de poys, to the damage of his people, and hinder ance of trade: which new Impositions being against Law, the King promised to redress for the future, and to content himself with the Prifes and Customs antiently due. They likewife complained of the abules, oppressions, and extravagances of Purveyors, Constables of Castles and Escheators, and abuses of Protections and Pardons grantea by the King to Murderers and other Malefactors to their inconragement ; whereto redreis was promiled. In their 6. Article, they complained, That the Knights, Citizens and Burgesses of Parliament came up with divers Petitions for matters not remediable at the Common Law, and could not finde to whom to deliver them. Whereunto was answered; The King willed, that in his Parliaments for time to come, certain persons should be appointed to receive Petitions; and that they (1) See An Exact abridghould be delivered TO HIS COUNCIL, as was used in ment of the the time of his Father, and examined and answered by him; Records in with their advice. Whence we find in (1) all our Parlia- Tower, title, ment Rolls ever fince in the beginning of every Parliament, Petitions, certain persons nominated by the King and Lords, being Parliment, in Members or Affiftants of the Lordshouse, to receive the the Table, & several Petitions of England, Ireland, Scotland, Gascoigne, Petitions of Terfey, Gernsey, Alderney, and other Isles; and other per- the Commons fons of the LORDS House appointed to trie, examin and bridgment it

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answer them in the Kings name and behalf; as he by their advice shall think meet; and sundry Peritions of Grierances of all kinds presented to them, and answered accordingly by the King and Lords in every Parliament, as well by the whole house of Commons, as by particular Counties, Cities, Corporations and private Persons; a most clear Evidence, that the King and Lords are the sole Judges of all criminal and civil causes and Grievances of the Commons in Parliament, since they thus constantly petition them for redress; and that the Commoners are only Petitioners, not Judges, as the Parliament roll of 1 H. 4. n. 79. resolves in direct terms.

Clauf. 8 E. 2. m. 7. dorf. The Chaplains of the House of Converts exhibited a Petition in Parliament against Adam de Ofgodby the Keeper thereof, for putting them out of their lodgings, and placing his Clerks therein, they being founded by King H. 3. to pray and fing Masses for his and his ancestors Souls, and not to lodge the Clerks of the Chancery.

Upon consideration of the Perition by the Lords and Councel in Parliament, it was referred to the Chancellor to examin and determine, tanquam principali Custodi onnium Hospitalium et Domorum de eleemosyna Domini Regis fundatorum, mipse inde sucret quod de jure esset faciendum. He sends a Commission to the House to inquire the truth of the complaint, and sinds the Complaint unjust, and that the Keeper of the House was fally charged, and that esse vially by William de Okelines, being one of the Chaplins, Whereupon consideratum est per Cancellarium, qued Willielmus idem nibil haberet de contentis in petitione sua pradicta seo quod committeretur ao custodiam suam pao salla querela sua castiganous, juxta discretionem dicti custo-

Pasch. 8 E. 2. Norfolk: The Archdeacon of Norfolk was accused tor citing the Counters of Warren, being the Kings Neece, and divorced from her husband, to the damage of the King 2000l. and it was adjudged by the Lords in Parliament against the Archdeacon, quod nec citatio, nec summonitio sieri debet versus eos qui sunt de sanguine Regis,

quiaillis Major reveremia debita est; and therefore he was fined,

(1) About the year 1316. when the Northumberland (1) Walfing-Soldiers, (like some in this age) raised against the Scots, de ham, Ypodig. tyron bus fasts sunt Tyranni, de desensoribus destructores, de Neustr. p. 102. propugnatoribus proditores, &c. one (2) John Tanner said o (2) Polychropenly, that he was heir of England. Therefore at Nor. 1.7.c. 42.s. 312. shampton before the king and Lozos, he was proved saise. Henry de and hanged and drawn. See more of him in Fabians Event. Angliz Chronicle: part. 7. Anno 1314. p. 167. who relates, 1.3. c. 14. col. that he reported he was son to King Edward the 1. but 2535. was stoln out of his cradle by a false nurse, and Edward who was anothers son, laid in the cradle for him; and that he had a Fiend in form of a Cit whom he served 3. years, which assured him he should be King of England.

"In the Parliament of 18.E. 1. the Prior of Trinity in "Placita Parl. London, and Bago de Clare were attached, brought into An. 18 Edw.", the Parliament, there fined a 1000 l. to Edmond Earl of in the Parch-Cornwal, and 2000 marks to the Abbot of Westminster, ment book in and committed to the Tower of London, by JUDGE. the Tower, f. MENT of the King, Earls, Barons, and Instices in full Parliamen, for citing and attaching the said Earl of Cornwal in Westminster hall, to appear before the Archbishop sitting the Parliament, whereof he was a Peer, against his Privilege, and the privilege of Sanctuary granted to the Abbot of Westminst and remained prisoners there till they put in Suresies, and paid the 1000 l. fine to the Earl, notwithstanding their plea of ignorance of these their Privileges.

In the Parliament of 4 E. 3. n. 2, 3, 4, 5, 6. Sir Simon Bereford knight, John Mautravers, Boso de Bayons, John Deverall, Thomas de Gournay, and William of Ocle, confederates with Roger Mortimer Earl of March, in all his Treasons and mildoings, for which he was then impeached and condemned, and guilty of the murders of King Edward the 2. after his deposition, in Berkley Castle, and of the Earl of Kant his Brother; were againsted and con-

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demined of High Treason by the Lozos . Barons & Der in Parliament, as Judges of Parliament, though they were Commoners, and nor their Diets, whom they were not at all obliged to judge as Ders : adjudging them by the Bings affent, as Traytors and Enemies of the King and his Realm, to be drawn and hanged: Whereupon Sir Simon be. ing in Custody, was executed by the Marshal; and Proclamation made by the Kings writs by the Lords order, to apprehend the others, with promise of great rewards to those who should apprehend them, that they might be executed; and if they could not take them alive to bring in their heads, for which they should receive the reward of 500% from the King.

It is true indeed, that after these Judgements given the Lords the same Parliament entred this special Protestation in the Parliament Roll n. 6. against being forced to give Judgement in such cases against those who were not their Peers; which " Sir Edward Cook Stiles an Att of Parliament, though it be no fuch thing, but a voluntary

Protestation of the Lords, with the Kings affent.

* 2 Inftir. p. 50.

"It is affented and agreed by our Lord the King, and "all the Great men in full Parliament, that albeit the " faid Ders, as Judges of Parliament, took upon them " in the presence of our Lord the King, to make and ren-" der the said Judgements by assent of the King, upon " fome of those who were not at all their Peers, and that "by reason of the murder of our Leige Lord, and de-† The Earl of fruction of thim who was so near of the bloud royal, "and fon of a King; that thereby the PEERS which now " are, o the Ders which thall be in time to come, thall "not be bound or charged to render Judgements upon " others who are not their Ders; noz get to boe it but " upon the Ders of the Land , but that they fhall from henceforch be for ever acquitted thereof. And that the " faid ludgements now rendered, shall not be drawn into example nor consequence for time to come, where-" by the faid Peers may be charged hereafter to adjudge " others than their Peers, against the Lam of the Land,

Kent, King Edwards Brother.

" if fuch another case should happen, which God de-

From this Protestation of the Lords (which Lilburn principally infifts on) he and *fome others conclude; that † Cook 2 Inthe Peers in Parliament have no right at all to imprison, stit, p. 50, fine, judge, or pass sentence of death against any Commoner for any offence, no, (not for breach of their own Privi-

leges) but only the Commons,

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To which Objection I answer: First, that this is no Act of Parliam. as Sir E. Cook mistakes, but a bare Protestation of the Lords alone, affented to by the King, without the Commons affent, which no wayes impeacheth the Lords right of judicature. Secondly, that neither the Houle of Commons, nor the Commoners then attainted of Treason and adjudged to death by the Lords, ever demurred or excepted against their Jurisdiction, as Lilburn and Overton doe, but acknowledged and submitted to ir. That in this very Protestation the Lords profess and justifie their right of BEING JUDGES in Parliament, without admitting or acknowledging any Joynt or fole right of Judicature with them in the Commons. Fourthly, That this Protestation was meetly voluntary, not in derogation, but prefervation of their own Honour, Right, Peerage, and the Parliaments privileges too; The substance of it is no more than this; That the Lords should not be confirmed against their wills by the Kings command, and in his presence, to give judgement of death in ordinary cases of Treason or Felony in the high Court of Parlia. ment, or elsewhere out of it, against such who were no Peers, who in such cases by the Law might, and ought to + Magni Char? be tried in the Kings Courts at Westminster, or before the c.19.15 E. 3. Instices of Oyer and Terminer by a Iury of their equals; but c.2.4. 28 E. 3. only in cases which could not well be tried elsewhere, 43.37 E.3.c.8. and were proper for their Judgement in Parliament; they Cook a Inflir. fearing that by this president in Parliament they might bep. 50, 51. Iworn and impannelled on Juries in cases of Treason committed by Commoners, against the Great Charter, 6, 29. and the Privilege of their Peerage, which exempted them

being fworn or put into Juries, as Fitz. Nat. brev. f. 165. 48 E. 3. f. 30. Exemption 6.48. Alf. 6. 27 H. 8. f. 22. b. This is the whole fumm and fence of their protestation. To argue therefore from hence, That they cannot pass femtence, or judgement against any Commoners in any cale proper for their Judicature in Parliament, because they protested only against being COMPELLED to give Indgement against such as were no Peers, in cases triable else. where, and not proper for their tribunal (as the Objectors hence conclude) is quite to miltake their meaning, end, & to speak rather non-sence, than reason or Law. Fifthly, This Protestation was made only against the Lords giving sentence in Felony and Treason, and that in the Kings own presence in Parliam s who usually pronounced the sudgment himself, or by some other, with the Lords affent, & did not charge the Lords to pronounce it, as here) not against fentencing, fining, imprisoning any Commoner for rayling and libelling against their Persons, Jurisoiction, and procedings; or refuling to answer, and contemning their Authority to heir faces at the barr; or appealing from their Judicature in case of breach of Privilege, of which themselves alone and no others are or can be Judges; the cases of Lilburn and Overton; whose commitments are warranted by hundreds of Presidents, in this and former Parliaments. Therefore for them to apply this Protestation to their cases, with which it hath no Analogy, is a minifestation of their injudicioniness and folly, rather than a justification of their Libellous Investives against the Lords injustice. Sixthly, The Lords gave judgement against all these persons by the Kings command in their absence, without any Indi Ament, hearing, Trial, witnesses heard or examined against them face to face, or due processor Law, against the Great Charter and Law of the Land, And this was the main reason of this their Protestation, as the close of it shews to prevent such dangerous presidents for the future. Upon which ground the judgements they then gave against Roger Mortymer & John Maurravers were reverled in the Parliament of 21 E.3. n. 65. 28 E. 3. n. 8.10 8. to 16. Lastly, This Protestation cid not foreclose the Lords in this or future Parliaments to give Judgement against Commoners in other cases of Felony and Treason, even without the Commone, which I shall prove by some other instances.

In the Parliament of 4 Ed. 3. n. 16. Sir Thomas Berke-(1) Exact as ley Knight was arraigned and tried by a Jury for Treason, 8 as being guilty of the death of King Edward the 2. committed to his cultody, who pleaded not guilty, and was tried in full Parliament before the King by a Jury, and by them acquitted: Which case being rare and memorable,

I shill here infert the whole Record.

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"Thomas de Berkele Miles venit coram Damino Rege "in pleno Parliamento suo prædicto, et allocutus hoc: " Quod cum Dominus Edwardus nuper Rex Anglia, pater "Domini Regis nunc, in custodia ipsius Thome, et cu-" justdam Johannis Mantravors nuper extitit collatus ad " falvo cuttodiendum in castro ipsius Thome apud Berkele. "in Com. Glouceftria, et in codem cattro in cultodia ip-Gorum Thoma & Johannis murdratus extitit, et interfe-" Aus, qualiter se velit de morte ipsius Regis acquie-"tare ? Dicir, quod nunquam fuit confentiens, auxilians, feu procurans ad mortem fuam, nec unquam scivit de " morte fua u'quam in præsenti Parliamento isto, et de "hoc paratus est acquietare se, prout CURIA REGIS " consideraverit. Et super hoc quæsiens est ab eo, ex "quo ipte est Dominus castri ptædicti, et idem Dominus "Rex in custodia ipsorum Thome & Johannis extitit libe-Gratus ad falvo custodiend. & ipsi custodiam ipsius Regis "receperunt, et acceptarunt, quali er le exculare pof-" fit quin de morte ipfius Regis respondere debeat ? Et "prædictus Thomas dicit, quod verum est quod ipse est . Dominus Caltri prædicti, et quod ipfe simul cum Johanu ne Mauravers, cultodiam ipfius Regis recepit ad falvo " cuftodiend; ut prædictum eft. Sed dicit, quod eo tem-" pore quo dicitur ipsum Dominum Regem effe murdri-" tum et interfectum fuit iple taliter tanta infirmitate acpud Bradeley extra Caftrum prædictum detentus, quod

" ei currebat memoria. Et super hoc dictum est ei, quod "ex quo cognovir, quod iple simul cum disto Johanne cu-"Itodiam ipfius Domini Regis obtinuit, ut prædictum eft, "et iple cultodes et ministros sub se posuit ad custodiam ci de eo faciendam, si per aliquam infirmitatem excusari " posset, quin respondere debuit in hac parte? Et præ-" dictus Thomas dicit, quod ipse posuit sub se tales cu-" Itodes et ministros in castro prædicto procustodia facicienda, a quibus ipse se confidebat, at de seipso, qui "custodiam ipsius Regis simul cum prædicto Johanne " Mautravers inde habuerunt, unde dicit, quod ipse de "morte ipfius Domini Regis auxilio, assensu, seu procu-" ratioue mortis sux, in nullo est inde culpabilis. Et de " hoc de bono et malo ponit se super patriam. Ideo ve-" perint inde Juracores cozam Domino Rege in Barli. "amento suo apud Westm. in Octabis Sancti Hilarii " proxime tuturi . &c. Ad quam diem venit prædistus "Thomas cozam Domino Rege in pleno Parliamento, " ac similiter Juratores, seil. Johannes Darci, lohannes de "Wilham, Willielmus Trussell, Rogerus de Swyneuerton, " Constantins de Morimer, Iohannes de sancte Phileberto, " Richardus de Rivers, Petrus Hussey, Iohannis de Dynton, "Richardus de la Rivere, Robertus Dabenhate, & Richardus "deCorveyes, omnes milites, Qui dicunt super Sacramen-" tum suum, quod prædictus Thomas de Berkelie, in pul-6 lo est culpabilis prædicti Domini Edwards Regis, Pa-" tris Domini Regis nunc, nec de assensu, auxilio, seu pro-"curatione mortis ejusdem. Et dicunt, quod tempore " mortiseju!dem Domini Edwardi Regis, patris Domini Regis nunc, fuit iple tali infirmitate gravatus apud "Bradely extra castrum suum prædictum, quod de vita "ejus desperabatur. Ideo idem Thomas inde quietus: & " Juratores quæsti, si idem Thomas unquam substraxit se "occasione prædicta? dicunt, quod non: Et quia idem 4 Thomas posuit custodes et ministros sub se,scil. Thomam it de Gourney, et Willielmum de Ocle ad custodiam de ipso "Domino Rege faciendam, per quod idem Dominus Rex "extitit murdratus et interfectus, datus eft ei dies cocc ram

ram Domino Rege nunc in proximo Parliamento luo, de audiendo JUDICIO SUO, &c. Et prædictus Thomas a de Berkelei interim committitur Radulpho de Nevill Mareschallo hospitii Domini Regis, &c.

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It is observable that though Edward the 2. was murdered after he was deposed by this Parliament, yet he is fill filed a King in this Indictment, and record, and his murder adjudged Treason in those who did it.

After his acquittal he put in Mainpernors to appear in the next Parliament, (m) Where appearing he and his Mainpernors were discharged, but yet him (elf ordered to appear a. (m) Exact a gain the enfuing Parliament , as appears by the Parliament bridgement, P Roll of 5 E. 3. W. 16.

(n. William Thorp Chief Justice of the Kings Bench, and (n) Rot. Par., one of the Justices of Affize in the County of Lincoln , in 24 E. 3. parsthe 23 year of Ed. the 3. against his Oath took to 1. of Ri-3. m. 2. dorf. chard Saleley, 201. of Hildeb and, of Beresward 401. of Gil. Rot. Pat. 25 bert Hollisand 401. and 101. of Pa Daldache to Gil. E. 3. part. I.m. bert Holliland 40 1. and 10 1. of Ro. Daldorby to flay an Exi-17. Cooks 3 gent upon an Indicament of diverse felonies, that should Inft. p. 223, have issued against them; Whereupon he was indicted 124. Mr.S.Jo. before the Earls of Arundel, Warwick, and Huntingdon, argument aainst the the Lord Gray and Lord Burghers, Anno 24 E. 3. to Shipmony whom the King by Commission referred the examination Judges, p. 22, of the businesse, before whom he could not deny, but 33,14.] confessed the Bribery. Ideo consideratum est per dictos Justiciarios assignatos, ad judicandum secundum voluntatem Regis, et secundum regale posse suum; quod quia pradictus Willielmus Thorp, qui sacramentum Domini Regis quod erga populum faum habuit custodiendum fregit malitiofe, false et rebelliter, in quantum in ipso fuit, & ex causis supradittis ipfum Willielmum expresse cognitis, ideo SN S-PENDATUR, et quod omnia terra et tenementa, bona et catalla sua remaneant forisfacta. The King by a writ under the privy Seal, stayed his execution, and fent him Prifoner to the Tower. In the Parliament of 25 Ed. 3. nu. 10-command was given, that the record of this Judge- (o) Exact ament against Judge Thorp should be brought into the Par. bridgement, liament, and there read openly BEFORE THE LORDS, P. 74.

to have every of their advice concerning it, whether tois Indgement were topal or not ? et nullo contradicente . all the Loads affirmed the indgement to be legal and good, confidering that he against his Oath received Bribes : And therefore it was agreed by all the Lords , that if the like case (hould hereafter happen, the King might take to him such Nobles as he bould think meet, and therein do according to his pleasure. Provided this judgement should not be drawn into example against any other Officers who should break their Oaths; but only against those, qui pradictum Sacramentum fecerunt (of Justices) et fregerunt , et habent leges Regales Anglad custod. Here the Lords were fole Jud. ges of the Judge, who was a Commoner, and gave judgement against him without the Commons, year reclare the Law in this new case, both in and out of Parliamenr.

(t') Exact a. bridgement, P. 67.

In the Parliament of 21 E. 3. n. 68. The Commons by divers Bills complained to the Lords of divers extertions, grievances, prejudices done to the King and Commons by John Wettenham, and Walter de Cherhon Merchants, who defired the King would command them to come before THE COUNCIL & LORDS in Parliament, to answer what (hould be objected, and clear themselves.

de Event. Angl.1.5. 601,2636.

In the Parliament of 50 E. 3. n. 17, 18, 19, 20. The (u) Exact a- Commons accused Richard Lyons Merchant of London of bridgement, divers deceits, extortions, and mildemeanors, whiles de Knyghton, he was farmer of the Cultoms and last subfidy, for transporting wools, and staple Commodities, procuring new Impositions on staple ware, for buying debts from the Kings Creditors at under rates, and making the King to pay the whole, for taking of bribes, and defrauding the King. To some of which charges he answered, and to the rest submitted himself to the King touching Body, Lands and Goods. Whereupon THE LORDS adjudged him to prison during the Kings will, that his lands tenements and goods should be feifed to the Kings use, that Commissions should issue throughout all England to inquire of his Extortions, whiles farmer of the fubfidies >

dies, and that he should be disfranchised. Upon this Judgement, in the Fine Roll of 50 E. 3.m. 19, 21, 22. there issued out writs for the arresting and selling the goods of Richard Lyons to the Kings use, which were his on the 19 of March, certis de causis cor am Nobis et Concilio nostroin prasenti Parliamento nostro propositio, Oc. per

Concilium in Barliamento.

The fame (x) Parliament, 50 E. 3. n. 31, 32. Willi- (x) Exact aam Ellis of great Tarmouth was accused by the Commons bridgement. of fundry extortions whiles he was Deputy Farmer of P. 122,123. the kings subsidie to Richard Lyons; To which he seemed sufficiently to answer; yet was BY THE LORDS adjudged to prison, and to make a fine at the Kings pleasure. Ibidem, Num. 33. John Peach of London was impeached by the Commons for procuring a license under the Great Seal, that he only might fell sweet wines in London, by colour whereof he took 4 s. 4 d. of every man for every Tun thereof fold, which he justified he lawfully might doe: Notwithstanding JUDGEMENT was given against him by THE LORDS; that he should be committed during the Kings pleasure, and make recompense to all parties grieved. Num 37. Adam de Bury was accused of divers deceits and wrongs done by him whiles Mayor of Calline, and Captain of Bellingham. Being fent for to come to the Parliament, he came not, nor could he be found. Thereupon the Lords agreed, that all his goods and chattels (hould be arrested, and so they were. All these Commons were first impeached by the Commons, and thus judged and censured by THE LORDS in this GOOD PARLIA-MENT, as Historians and others stile it: And in the Commons petitions therein, there are divers Petitions of Grievances from fundry Counties, Towns, persons, complaining of wrongs and grievances, presented to the King and Lords for redreffe of oppressions, extortions, Monolies , &c.

In the (7) Parliament of 1 R. 2. n. 41, 42, 43. Dame (y) Exact a-Alice Pierrees was brought before THE LORDS by Sir bridgement, Richard Scroop Knight, and there charged for pursuing P. 158.

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matters at the Court, contrary to an Order made in the Parliament, of 50 E. 3. n. 35. and procuring King Edward to restore Richard Lyons to his lands and goods, &c. the denied the purfued any fuch thing for fingular gain, against that Ordinance; whereupon diverse Officers, Countellers, and Secretaries of king Edward 3. were examined against her, who proved she made such pursues, and that for private gain in their conceits. Whereupon the Lords (alone, without the Commons) gabe Judgement against her, that she should be bani hed according to the order aforesaid, and forfeit all ber Lands, Goods, and Tenements to the King,

(y) Exact abridgement, P. 157.

The fame (2) Parliament; 1 R, 2.n. 32, 33. The Lords committed William Fitz. Hugh Goldfiner, and Citizen of London to the Tower, for refusing to averr a Peticion exhibited by him in the name of the poor Commonalty of that mystery, complaining against John Chichester and John Bolcham of the fame mystery, of divers oppressions done by them to the said Commonalty.

(c) An Exact p. 157, 158. And my Doom of Co. wardise and 3,3,4,5.

In this very (a) Parliament of I R. 2.n. 38, 39, 40. abridgement, The Commons prayed, that all those Captains who had rendredor lost Castles or Towns through default, might be put to answer it in this Parliament, and severely punished according to their deferts BY AWARD (or Judgement) OF Treachery, p. THE LORDS and BARONS, to eschem the evil examples they had given to other Governors of Towns and Castles. Whereupon Sir Alexander de Buxton Constable of the Tower, was commanded to bring BEFORE THE LORDS IN PARLIAMENT William de Weston, and Lord of Gomynes (both of them Commoners) on Friday the 27 of November, to answer such Articles as should be furmised against them on the Kings behalf. brought BEFORE THE LORDS in full Parliament, they were severally articled against at the command of THE LORDS, by Sir Richard le Scrop Knight, Steward of the Kings House; and their several Articles, and anfwers to them in writing, read before THE LORDS; Which done, the Constable was commanded to bring them in the

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them again before THE LORDS on Saturday next enfuing, being the 20 of November; on which day it was snewed unto them severally by the said Steward, by THE LORDS COMMAND, That THE LORDS OF THE PARLIAMENT (whose names are particularly mentioned in the Roll) had met together, and confidered of their respective answers, and that IT SEEMED TO THE LURDS AFOR ESAID, that the laid William had delivered up the Cattle of Omherwycke to the Kings enemies, without any durefs or want of victuals, contrary to his allegiance, and undertaking fafely to keep ir; and therefore the Lozos above-named fitting in full Parliament adjudge you to death, & that you hall be drawn But because our Lord the King is not informed of the manner of the Judgement, the execution of it shall be respited till the king be thereof informed.

After which Judgement given, it was shewed to the said John Lord of Gomynes by the said Steward, how the faid LORDS had affembled and confidered of his answer, and THAT IT SEEMED TO THE LORDS sitting in full Parliament, that without duresse, or default of victuals or other necessaries, for the defence of the Town & Ca-Ale of Arde, and without the Kings Command, he had evilly delivered and furrendred them to the Kings Enemies by his own default, against all appearance of right or reason, contrary to his undertaking safely to keep the same; Wherefore THE LORDS aforesaid here in full Parlia-ADJUDGE-YOU TO DEATH. And because you are a Gentleman and a Baronet, and have served the Kings Grandfather in his wars, and are no Liege man of our Lord the King, you shall be beheaded, without having O-THER JUDGEMENT: And because that our Lord the King is not yet informed of the manner of this Judgement, the execution thereof shall be put in respite until our Lord the King be informed thereof.

Loe here two express Judgements given in Parliament by the LORDS alone, without King or Commons in case of Treason, even against Commoners themselves.

And.

And an express acknowledgement by the Commons of the Lords right to award Indgement in these cases, without the King or them; than which a fuller and clearer

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proof cannot be defired.

(1) An exact In the Parliament of 2 R. 2, n. 34, 35. Sir Robert How. abridgment, and knight was committed prisoner to the Tower upon p. 176. 177. the complaint of the Lady Nevil by the Logos in Parliament, for a forcible imprisonment of her daughter, to which he was accessory, that she might not prosecute a divorce in Court Christian.

(2) Walfingh. In the 50 year of King Edward the 3. (in the Parlia-Hilt. Anglia, ment called the good Parliament) Sir John Anneslee

247. Ypodig. Knight, accused Thomas Kherington Efquire of Treaton. Neuft, p. 138 for felling the Caltle of St. Saviour in the Ife of Conftantine to the French for an inestimable sum of money, cum nec defensio sibi, nec victualia defuissent : whereupon he was taken and imprisoned, but in King Edwards fickness, enlarged by the Lord Larymers means (as was reported.) In the Parliament held at London (Anno 1380. the 3. of R. 2.) he was again accused by Sir John Annestee, and there refolved, that being a Treason done beyond Sea, not in England, it ought to betried by duel before the Constable of Marshal of the Realm. Whereupon a day of battel was appointed in the Court at Westminster the 7. of June, and lists fee up. On which day in the morning they fought the battel in the presence of the KING, Nobles and Commons of the Realm (which Walfingham at large describes) till both of them were tyred, and lay tumbling on the ground; where the Esquire got upon the Kuight, as if he had conquered him: Others faid, the Knight would rife again and vanguish the Esquire. Interea Rex pacem cla. mari pracepit, et militem erigi. The Knight refuled to be lifted up as the Esquire was, defiring he might be laid upon him again, for he was well, and would gain the victory, if he were laid upon him again. When he could not obtain his request, being hifted up, he went chearfully to the King without help, when as the Esquire could neither fland norgo, but as two held him up; and thereupon Was

was fet in a chair to reit him eif. The Knight when he mons of came before the King, regavit Cum et Proceres, ut fibi withillam concederunt graitam, uti;crum in loco quo priss , poffee clearer reponi, et armiger super eum. Rer bero et Phoceres, cum vidiffent militem tam animofe, sam vivide beilum repet How. tere, et insuper magnam summam auri offerre publice ut r upon id poffet effici, Decreberunt eum fterum reponendum, & n Pararmigerum super eum, modo universaliter servato quo jacue iter, to rant ante proftrati. But the Efquire in the mean time in cute a a fwonn, fell out of the chair as dead, between the hands of those who stood by him. Whereupon many running to Parliahim, chafed him with wine and water, but could not re-Anne flee cover him till they pulled off his arms. Quod factum et realon, Militem victorem probavit, & Arm gerum effe viltum. on ft an-After some space the Esquire reviving, opened his eyes, o cum and began to life up his head, and to look terribly on evehe was ry one that flood round about him: which the knight bes, ening informed of, went prefently to him in his arms which d.) In he never put off, and speaking to him, et 10200ttozem et of R. falfum appellans, quarit si iterum audeat Duellum repetere? there Ille verd nec fenfum, nec spiritum habente respondendi; clain Engmaium est sugnam finitame et ut quisque ad propi sa remearct. able or The Squire was carried to his bed tencelets, and died the el was next morning. Here we have a Duel ordered by Parliae, and ment, and the Aing and Lords Judges init, not the fought Commons, for a Treaton done beyond the Seas not tria-Com-

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In the (3) Parliament of 4 R. 2.n. 17. to 26. Sir Ralph (3) An Exact Forrers being arested for suspicion of Treason on the bor-abridgement, ders of Scotland, was brought into the Parliament besoze p.189, 190. the Lords, to answer the same: where divers Letters Hist. Anglia, under his hand and Seal (as was pretended) were produced p. 154, 155. and read against him, sent to the Lord Admiral of France, and other French Officers, informing them, that he in the behalf of the French had made a League and alliance with the Scots, and desiring them to make payment of the monies promised him, and of his own see, and inviting the French to invade England; &c. with discoveries of the

Kings.

Kings designs against the French, and answers to them. Sir Ralph defired Counsel in this case, which was denied him: These Letters were found by a beggar besides London; divers of his familiars were called into the Parliament house before the Lords, and likewise the beggar, and the whole matter firially examined: The Letters fent by Sir Ralph to the parties beyond Seas, and certain Letters fent by them in answer to his, were all sealed together, and all of one hand, and the Seal larger than the Seal of the faid Sir Ralph, whereupon they feemed to be forged by some of his Enemies for his overthrow; himself being once or twice urged to answer, Whether the Letters were his, or no? answered, that he did not remember they were his own Lesters, and that he was ready to approve, as the Lords should think fit; having formerly offered combate with any that would jufife it, from which he was put. In conclusion, the Lotte thought him to be innocent : whereupon he was delivered 10 4. Earls, and 2. Lords, who became pledges bod; for bo. dy, to answer when he should be called between that and the next Parliament, and so he was inlarged. The Letters and his Seal were delivered to Sir John Cavendish Chief Justice of England, and the beggar being thought privy to this falshood, was committed to prison by THE LORDS.

(4) See an 200,

In the (4) Parliament of , R. 2. n. 44, 45. Richard. Exact abridg Clindow E quire exhibited a Bill to the King, wherein he accused Sir William Cogan knight, for extorring 300 l. by menaces from the Prior of St. Iohns; Sir William appearing upon Summons, prayed Counfel, which was denied, for that it concerned Treason; whereupon he pleaded Not Guilty. After which the same Parliament, p. 46. 10 61. The Mayor, Baylifs and Commonalty of Cambridge were accused before the King and Lords, that in the late inforrection, they confederating with other Malefactors, did break open the Treasury of the University of Cambridge, burn fundry Charters of the University, and compel the Chancellor and Scholars under their common Seal to release to the said Mayor and Burgesses all manner

granted

of Liberties, real and perional actions, and also to become bound to them in great fums of money. Whereupon special writs were directed to the Mayor, Baylifs and Commonalty to appear in Parliament to answer the premiles. The Mayor and Baylifs appear in person, and plead; that they were not privy to any fuch act, but if any thing was done it was by compulsion by others, which the Kings learned Counsel disproved; whereupon they pleaded Not Guilty: The Commonalty appeared by Attorney, and delivered in the Release and Bond of the Univerfity complained of under their Seal, which were ordered to be cancelled. After which the Chancellor and Scholars of the University exhibited Articles against the Mayor and Baylifs, shewing their whole carriage and difcourse in this tumult. Upon reading whereof, it was demanded of them in the Kings behalf, What they could fay why their Liberties lately confirmed should not be seised into the Kings hands as forfeited? They thereupon required a Copy of the Articles, Councel, and respite to answer. To the Copy of the Bill, it was answered by the Lords, that seeing they had heard it read, it should suffice, for by Law they ought to have no Copy. For Councel, it was faid; That to such articles, if any were wherein Councel was to be had, they (hould have it; otherwise not. Wherfore they were then appointed to answer to no crime or offence, but only to their Liberties. To which they answered by their Council; That this Court ought not to have any Connsance or Jurifdiction of them for certain causes then alleged. But at last they were ordered to fay what they could, otherwise they would give Inogement against them, as these who had nothing to fay. Whereupon they pleaded, they did nothing but by Duress and constraint of the Rebels. At latt, after many dilatory shifts, touching their Liberties, they wholle submitted shemselves to the Kings mercy and grace, saving their answer to other matters. The KING therefore by the affent of the Pzelates and Lozds in Parliament 10 is the Roll) feefed their Ist rives into its hands as for feited; and by affent of the Lozds and Paclates in Parliament,

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on Seal manner of granted to the Chancellor and Scholars the Athie and correction of bread, weights, measures, and forestallers, and fines thereof within the Town and Suburbs of Cambridge which the Townsmen had before. The King, Lords, and Prelates being Judgess and giving the Judgement in this case of Commoners, as the record at large attests.

(5) Hist. Anglia, p.318.

London this year about the feast of St. John, upon the Petition of the knights of Shires, John Straw, Captain of those in the insurrection at Bury and Wyldenhale, trastationi et suspensioni ADJUDIC ATUR, (to wit by the King

and Lords) licet multi putaffent eum fuiffe pecunia redimen.

dum.

6) In the 7. vear of R. 2. Rege vocante congregati funt (6) Walfingh. Hift. Angl. P multi De Bobilibus Regnt apud Rading ; to restrain the 336. Sedicions morsons of John de Northampton, late Mayor of London, qui ingenia facinora nisus est, de quibus et convictus est ibidem, his familiar Clerk accusing him, both of di. vers practifes and designes projected by him, as well to the prejudice of the King, as of the whole City of London, and objecting them against him. When Judgement was to be given against him in the Kings presence, he pleaded, that such a Judgement ought not to be given against him in the absence of the Duke his Lord; whereby he raised a finifier suspition as well in the people, AS NOBLES, against the Dake (of Lancaster.) The Justice (who was to pronounce the Judgement) told him, He ought to refute his charge by Duel, or by the Laws of the Realm to submit himself to draw. ing, hanging, and quartering. At which when he flood mute and faid nothing, DECRETO M EST, nt perpetuo carceri traderetur, et e us bona regis usibus confiscarentur, & ut Londonias non appropinguaret per centum miliaria in vita fua: whereupon he was fent prisoner to Tyntagel Castle in Cornwall, and his goods seised on by the Kings Offi-

(7) An Exact cers.
abridgement, (7) In the Parliament of 7 R. 2. holden at Westminster
p. 292,293,

294. See my Doom of Cowardise, p. 14, 15. Walfogham, Hilt, Angl. p. 333.

the Monday next before the teatt of All Saints, num. 17. Bryers Creffingham, and Iohn Spickworth Esquires, were accused before the LORDS for surrendring the Castle of Drinkham in Flanders to the kings enemies for money, without confent of the kings Lieutenant. Spickworth proved, that the same was not in his custody; and thereupon he was discharged. Cressingham pleaded, that he reelded the fame upon necessity, without money, and submitted himfelf to the Lords order : Who thought this no good cause ; and therefore committed him to prifen. The same Parliament, n: 24, 25. Sir William de Elinfham, Sir Thomas Triver, Sir Henry de Ferriers, and Sir William Farnden knights, and Robert Fitz-Ralph Elquire, were accused before the Lords in Parliament for felling the Cattle of Burburgh, with all the arms, ammunition, and provisions therein to the French, the kings enemies, for fundry furms of gold received by them of the French, without authority from the king or his Lieurenant: who pleaded, they furrendred it for salvation of themselves and their people, &c. After all their excuses made, they were upon consideration, adjudged insufficient by the Lords; and the Chancellor, by their order, pronounced this Judgement against them, That they should repay all the monies they received from the Enemy to the King, be committed to prison, ransomed at the Kings will; and moreover, that Sir Will. de Faraden (being the greatest Offender) should be at the Kings mercy both for body and goods, to do with them as he pleafeth.

(8) In this Parliament there was a Duel fought between John Walfh an English Esquire, and one of Navarr. (2) Walfingwho accused him of Treason against the King and Realm Angl. p.337.
effectually; but yet salsly out of envy; Walsh having layen
with his wise whiles he was under Captain of Cherburgh;
as he afterwards consessed. This Duel was sought within the lists in the presence of the Aing and Robles of the
Realm, where this Navarrois being vanquished by
Walsh, REGALI JUDICIO trastus et suspensus
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(9) An,Exact P.299, 300.

(9) In the 2. of Parliament of 7 R. 2. n. 13. to 19. abridgement, John Cavendish a Fishmonger of London, praying Surety of the peace against Sir Michael de la Poel Knight, Lord Chancellor of England; first before the Commons, and afterward before the Lords, which was granted: Then he accused him BEFORE THE LORDS for bribery and injustice; and that he entered into a bond of 101, to lohn Ottard, a Clerk to the faid Chancellor, which he was to give for his good success in the business: in part of payment whereof, he brought Herring and Sturgeon to Ottard, and yet was delayed and could have no justice at the Chancel. lors hands: Upon hearing the cause, and examining wir. neises upon Oath before THE LORDS, the Chancellor was cleared: The Chancellor thereupon required reparation for so great a flander: the Lords being then troubled with other weighty matters, let the Fishmonger to Bail, and referred the matter to be ordered by the Judges; who upon hearing the whole matter, condemned Cavendish in three thousand marks for his flanderous complaint against the faid Chancellor, and adjudged him to prison till he had paid the same to the Chancellor, and made fine and ransom to the King also: which the Lords confirmed."

(II) An Exact abildgement, p.304,

(10) In the Parliament of 8 R. 2. n. 12. Walter Sybell of London was arrested and brought into the Parliament before the Lords, at the fute of Robert de Veer Earl of Oxford, for flandering him to the Duke of Lancaster, and other Nobles, for maintenance : Walter denied not but that he faid, that certain there named, recovered against him the faid Walter, and that by maintenance of the faid Earl, as he thought. The Earl there prefent protested himself to be innocent, and put himself upon the trial. Walter thereupon was committed to Prison by the Lords, and the next day he submitted himself, and desired the Lords to be a mean for him, faying; he could not ascufe him: whereupon THE LORDS CONVICTED and FINED HIM FIVE HUNDRED MARKS TO THE SAID EARL: for the which, and for his fine and ranfom to the King he was committed to prison BY THE LORDS. A By direct case in point.

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By these two last Presidents of the Lords sining and imprisoning Cavendish and Sybel, two Commoners in Parliament, for their slanders and salse accusations only of two particular Peers and Members of their house, it is most apparent, the Lords now may most justly, not only imprison, but likewise fine both Lilburn and Overson for their most scandalous Libels, against all the Members just Privileges, Judicarory, and Authority of the whole House of Peers, which they have contemned, vilisied, oppugned, and libelled against in the highest degree, and most scurrillously abused, reviled in sundry sedicious Pamphlets, to incite both the Army and whole Commonalty

against them.

(11) In the Parliament of 11 R. 2, the Duke of Gle-(11) Henry cester and other Lords came to London with great forces de Knyghton, to secure themselves, and remove the kings ill Counsellors Anglia, 1, 5, and bring them to judgement; whereupon the King for col. 2535, to sear securing himself in the Tower of London, and refusing 2577, to come to them at Westminster, contraty to his faithfull Walsingham, promise the day before, they sent him this threatning Hiss. Angl. Message; nist venire maturaret suxta condition, and els-366. Ypodig. gerent alium sibi Regem qui bellet et bebetet obtempera. Neustr. p. 146, te constities Dominozum. Wherewith being terrified, 147.

he came unto them the next day : Cui dixerunt PROCE-RES, pro honore (uo, & regni commodo, oporteret, ut Proditores, susurrones, adulatores, et male fici detractores & juratores, à suo Palatio et Comitiva etiam eliminarentur ; Whereupon they banished sundry Lords, Bishops, Clergy-men, Knights and Ladies from the Court, and imprisoned many other Knights, Esquires, and Lawyers, to answer their offences in Parliament. The first man proceeded against in Parliament, was the Chief Justice Trefylian, whom the Lords presently adjudged to be drawn and hanged. The like Juegement the Loads gabe againft Sir Nicholas Brambre Knight, Sir Iohn Salisbury, Sir Iames Burweyes, Iohn Beauchamp, Iohn Blake; who were all drawn and hanged accordingly as Traytors one after another : and Simon Burly beheaded after them, by like judgement, not-· withstanding withit anding the Kings, and Earl of Derbies intercethons for him to the Lords. After their Execution, Robert Belknape, John Holi, Roger Fulthorp, and William Burgh, Justices, were banished by the Lords sentence, and their lands and chattels confiscated, out of which they allowed them only a small annual pension to sustain their lives. After which these Judgments against them were confirmed by Acts of Attainder, as you may read in the Statutes at large of 1 I R. 2. where their Crimes and Treasons are specified, in Cokes 3 Institutes, c. 2. p. 22, 23. and in Knyghton, Holinshed, Fabian, Speed, Trussel, with other Hittorians.

(m) Exact abridgement, P. 330, 331.

In the (m) Parliament of 13 R. 2. n. 12. Upon complaint of the Bishop, Dean and Chapter of Lincoln against the Mayor and Baylists thereof, for injustice in keeping them from rheir rights and rents, by reason of the franchises granted them, which they abused; Writs were sent to the Mayor and Bayliss, to appear at a certain day before the Loads, and to have full authority from the whole Comonalty so abide their determination therem: At which day the Mayor and Baylists appearing in proper person, for that they brought notifull power with them from the said Commonalty, they interesting they the Lords to be in contempt, and so were the Mayor and Baylists of Cambridge, for the self same cause this very Parliment, n. 14.

(n) Exact 2bridgement, P. 342, 343. In the (n) Parliament of 15 R, 2, n. 16. The Prior of Holland in Lancashire, complained of a great riot done by Henry Treble, John Greenbow, and sundry, & others for entring into the Parlonage of Whitwicke in Leicestershire; thereupon John de Ellingham, Serjeant at Armes, by vertue of a Commission to him directed, brought the said Treble and Greenbow, the principle malesactors into the Parliament before the Lards; who upon examination comfessed the whole matter, and were therefore committed to the Fleet, there to remain at the Kings pleasure: after which they made a fine in the Chancery, agreed with the Prior, and found sureties for the Good behaviour;

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whereupon they were dismitted. The same Parliament, n. 19. Sir Will. Bryan , was by the Bing with the affent of the Logos, committed prisoner to the sower during the Kings will and pleasure, for purchasing a Bull from Kome to the Archbishops of Canterbury and Tork, to excommisnicate all fuch who had broken up his house, and taken away divers Letters, Privileges, and Charters, which Bull was adjudged prejudicial to the King; his Council, and in derogation of the Law. Num. 20. Thomas Harding was committed to the Fleet by the King and Lor's aftent, there to continue during the Kings pleasure, for fally accufing Sir John and Sir Ralch Sutton, 25 well by mouth as writing, of a conspiracy, whereof upon hearing they were acquitted. And n. 21. John Shadwell of Boghfteed in Suffex, was like wife committed to the Fleet by THE LORDS, there to remain during the Kings pleasure, for mil-in'ormir g of the Parliament, that the Archbishop of Canterbury had excommunicated him and his neighbours wrong fully in his firitual Cour, for a temporal can fe belonging to the Crown, and Common Law, which was adjudged by the Lords upon examination to benniru ...

To passe by the accusation of Sir Philip Couriney, of divers hainous matters, opprettions, diffentions before the King and Lords in the Parliament of 16 R. 2. n. 6. 13, 14. of which more anon. In the Parliament of 17 R. 2. (0) Exect an. 20, 21. (0) John Duke of Lancastre Steward, and Thomas bridgement .p. Duke of Gloncester Constable of England complained 10346, 347,3512. the King, that Sir Thomas Talbot Knight with other his 354 Cooks 3 adherents conspired the deaths of the Said Dukes in divers Inwir. p. 22. parts of Cheshire, as the same was confessed and well known, and prayed, That the Parliament might judge Whereupon the Bing and the Lords in Barliament (without the Commons) adjudged the faio fact to be open, and Bigh Treafon, And thereupon they awarded two Writs, to the Sherifs of Tork, and of Derby, to take the body of the faid Sir Thomas, retornable in the Kings Bench, in the month of Eafter next enfuing: And open Proclamation was made in Wastminster Halt;

That upon the Sherifs retorn, and at the next coming in of the (aid Sir Thomas, he should be convicted of Treason, and incurriche loss and pain of the same; and that all such who (hould receive him after the Proclamation, (hould receive the like loffe and pain.

(p) Exact abridgement, P. 361, 362.

In the (p) Parliament of 20 R. 2. n. 15, 16, 23. Sir Thomas Haxey Clark, was by the King & Lords in Parl, adjudged to die as a Traytor, and to forteit all his Lands, Goods, Chattels, Offices and Livings, for exhibiring to the House of Commons a scandalous Bill against the King and his Court, for moderating the outragious expences of his Court by Bishops and Ladies, &c. Upon the Bishops in: ercession the King spared his life, and delivered him into the cultody of the Archbishop, to remain as his Prisoner.

(q) Exact 2-

In the (9) Parliament of 21 R. 2. s. 19, 20, Pl.& Parl. bridgement, p. n. 2. to 15. The Lords Appellants appealed Sir The Mor-369,379, 381. timer Knight, of High Treason, for raising war against the King; accroaching royal power; and purposing to furrender his homage and allegiance, and depose the King: Who flying into the parts of Ireland; thereupon the Lords in Pa liament affigued him a certain day to come and render himself to the Law, or else to be adjudged and proceeded against as a Traytor: and Proclamation thereof was made accordingly in England and Ireland, to render himself within 3 months: And that after that time all his Abettors and Aiders (hould be reputed for, and for feit as Traytors. He not. coming at the day, The Duke of Lancaster Sceward of England, by affent of the Lords in Parliament, adjudged him a Traytor; and that he should forfeit all his Lands in fee and fee tayl, together with all his Goods and Chattels. The like Judgement in like manner was in the fame Parliament given against Sir John Cobbam Knight, for the like Treason, Placit. Coronan. 16.

"Exs& Col. P. 381.

Oh the 22 day of March. 22 R. 2. n. 27. The King, by allent of the Lozds, adjudged Sir Robert Plefington, Knight, then dead, a Traytor, for levying war against him with the Duke of Glocester at Harrengary; for which he should

should lote all his Lands in tee, or tee tayl, and all his goods. And n. 28. Henry Bowht Clerk, for being of Counsel with the Duke of Hereford in his device, was adjudged by the King and Lords to die, and forfeit as a Traytor; after which his life was pardoned and he banished.

In the Parliament of 1 H. 4. n. 79. As the Commons See here, p. acknowledged, that the Indgements in Parliament had always of right belonged to the King and Lords, and not unto the Commons: So therein the King and Lords alone, without the Commons, gave Judgement in fundry cases, as

judges in Parliament. I. In Sir Thomas Haxey his case, who in his own name Rot. Parl, I

presented a Petition in this Parliament, a nostre trefe. H. 4. n. 90. doute seigniour le ROY, & a LES SEIGNIORS D'A PARLIAMENT, shewing, that in the last Parliament of 21-R. 2. that he delivered a Bill to the Commons of the faid Parliament for the honour and profit of the faid King, and of all the Realm; for which Bill, at the will of the King, he was (by the King and Lords) adjudged a Traytor, and to forfeit all that he had; praying that the record of the faid Judgement, with the dependants thereupon might be vacated and nulled by them in this prefent Parliament as erronious; and that he might be reflored to all his degrees, farms, estate, goods, chattels, terms, pensions, lands, tenements, rents, offices, advowsons and postessions whatsoever, and their appurt. and enjoy them to him and his heirs; notwithstanding the faid Iudgement, or any grant made of them by the King. * The Commons House exhibited a Petition likewise * 1 H. 4. a. on his behalf, to the like effect; adding, that this judge- 104. ment given against him, for delivering this Bill to the Commons in Parliament, was encortre droit, et la course quel avoit estre use devant in Parlement en ansentesment des Customs, des les Communes. Upon which Peritions, Noftre Seignier le ROY, de laduis & affent des tong les Seigniogs esperituelz et temporelz ad ozdinez et adjudges, que le ait juggement renus vers le dit Thomas in Parlement foit de tout caf-

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nient obstant mesme le juggement.

2ly. In the case of Judge Rickbill 1 H. 4. n. 92. On the 180f November, the Commons prayed the King that Sir William Rickhill late Just of the Common Bench, arrested for a Confession he had taken of the Duke of Gloncester at Calice, might be brought to answer for it bebant les Seigniors on Barlement: whereupon he was brought in o Parliament before the Kings prefence, and all the Lords spiritual and temporal, and Commons assembled in Parliament, where Sir Walter Glapton Chief Justice of the Kings Bench, by the kings command, examined the faid Sir William , how and by what warrant he went to Calice. to the faid Duke of Glocester, and u on what message? Who answered, that king Richard sent him a special Writ into Kent (there recited verbatim) commanding him by the faith and allegiance whereby he was obliged to him. and under pain of forfeiting all he had, to goe unto Caleys. And that at Dover he received a Commission from the faid king by the hand of the Earl Marshal, to confer with the Duke of Glocester, and to hear what loever he would fay or declare unto him, and to certifie the king-thereof in proper person, wherever he should be stully and diflinctly under his Seal. Whereupon he went thicher, and took the faid Dukes Examination in writing, according to the purport of the faid Commission, a Copy whereof the Duke himfelf receive, &c: Upon the hearing of his answer and defence, every temporal Logo being in full Parliament examined touching the aniwer of the faid Sir William, and the matters and evidences which they had examined, said severally; that the said William had done his meffage well and legally, and that in the person of the said William there was no fault nor evil touching the faid me fage, nor any thing that he did to the person of the said Duke. Whereupon maker Classon Chief Justice of the Kings Bench , by command of the king motingen and bedared, that the faid William should be fully excused and acquitted

for ever in time to come touching this matter.

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31v. The * last day of this Parliament, it was agreed by the Bing and Logos, that all the remembrances called Parl, n. 93. Raggimans of Blanches Charters, lately fealed in the Ci y of London, and divers Counties, Cities and Burroughs of England, should be fent to the City of London; and from every County, City and Burrough from whence they came, and Writs fent to every of them rehearling, That the king held all the resiants and Inhabitants in them for his good and loyal Subjects; and that no confession by them made, comprifed in the faid reme mbrances, are nor shall be in derogation of the estate of any such person : and that the same remembrances shall be burnt and destroyed in the most open place of the faid Councies, Cities and Burroughs, and if any t hing remain of record in any Court, or piece, the king wills that it shall be cancelled, and totally adpulled, revoked and repealed, and held for no record, and of ro force nor value for time to come.

4ly. The 19th of Movember in the Gid Parliament, Placia Corone coram Domino Rege in Parliamento (no, Oc. Anno regni Regis Henrici quarti post Conquestum, primo v. 17. The Commons prayed she King, that the purfuce, arreft, and judgements made against Sir william le Screps knight, Henry Green knight, and John Baffy knight, might be affirmed and held good. Whereupon Sir Richard Scroop humbly prayed the King, that nothing which shou d be done in this Parliament might curn to his cr his Childrens dif-inheriton. Of which Sir Richard ic was demanded , whether the faid purfute, arrest and judge . mints were good or not? who answered, that he feared not to fay, and must confesse , that when they were made th y wore good and profitable for the King and Realm, and that his Son was one of them, for which he was very forrowfull. Whereupon the king rehearled, that he claimed the Realm and Crown of England, with all their members and apputtetenances, as heir of the bloud by the night line of king Henry the 3d. and although through the right which God had fent him, by the aid of his Parents and friends, he

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recovered the faid Realm, which was at the point to be undone by default of government, and defefance of the Laws and customs of the Realm, yet it was not his will that any (hould think, that by may of Conquett, he would disinherit any man of his heritage, franchise, or other right which he ought to have, nor out any man of that which be had, or (hould have by the good Laws or Customs of the Realm. except these who had been against the good purpose and com. mon profit of the Realm; of which only the King held the faid Sir William, Henry, and John for fuch, and guilty of all the evil which had come upon the Realm: and therefore he would have and hold ail the Lands and Tenemen s they had within the Realm of England, or elsewhere, by conqueft: Whereupon, fuilt deminde de touts les Selante oas tempozelles lour abbys le les purfuite, arrette, & juggem ne fundiez. Les queux Seignfoze tous De une ac corde diforent, que melmes les pursuite, arreite, juggement & grinique fuilt fair come defuitt dit uist bons, et les affirmente Pour bons et profitables.

Exact abridgement, P. 400, 401.

5ly. In the cale of * John Hall, I H.4. Placita Corone, n. II to 17. who being in cultody of the Marshal of Englana, was brought by him before the Lords in Parliament, and there charged before them by Walter Clapton, Lord Chief Justice, by the King command, with having a hand in the murther of the Duke of Glocester, who was smothered to death with a Featherbed at Calues by king Richard the feconds command; the whole transaction whereof he confessed at large, and put in writing before James Billingford. Clerk of the Crown, which was read before the Lords; upon reading thereof, the King and all the temporal Lords in Parliament resolved, that the taid John Hall, by his own contession, deserved to have as hard a death as they could adjudge him to, because the Duke of Glocester was so high a Person; and ther upon toutes les Seignetojs tempozels per affent on Roy adjuggerent, all the semporal Loras by affent of the King ADJUDGED, that the [aid Jo. Hall [hould be drawn from Tower hill unto the Gallows at Tiburn, and there bowelled :

led, and his bowels laid before him; and after he should be banged, beheaded, and quartered, and his head fent to Calice where the murther was committed, and his quarters fent to other places where the king should please; and thereupon command was given to the Marshal of England to make execution accordingly, and it was so done the same day.

Lo here the Lords in Porliament gave judgement against a Commoner in case of a murther done at Calice, (and so not riable in the Kings Bench, but in Parliament) and palle a Judgement of High Treason on him, for

murthering of a great Peer only.

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In the Parliament of 2 H. A. rot. Parl. n. 23, 24. The "Sec this cafe Commons shewed to the King, that" William Bagot had abridg'd in an been impeached of many horrible deeds and misprisions, ment, P. 406. the which if they had been true, the Commons supposed, that the Bing and the Lords would have had good notice thereof, for that they had made many examinations thereof whiles the laid William was in diffress. And therefore the faid Commons prayed the King, that the faid Sir William being in Flanders and no offence found in his perion, upon the flanders in his imreachment aforefaid; that he would be pleased to restore him to his lands! To which prayer was answered in the Kings behalf, that although the faid Sir William upon the faid impeachmen made the last Parliament, was put to his answer before the Bing and the Loads, and there pleaded a general Charter o pardon, against which Charter, it feemed to all. the Lozos then prefent, the the faid Sir William ought not to be impeached nor put to answer by the King, on his part; for that the faid Sir William was not attainted of any impeachment suggested against him, and that the King had done him justice in this behalf; therefore he would in the same manner doe him justice in the refidue at the Commons request. A most full proof of the Kings and Lords judicial power in Parliaments, even in cale of a Commoner.

exact abridge-

(z) Fox Acs The same Parliament, (z) 2. H.4. num. 29. William Same & Monum.

Wol. 1. p. 875. Archvishop arundel and the Clergy, thereupon by 03.

Firz. Natur.

Brev. 6. 269

Prelates, (who mun not have their hands in blood, though Christian Mathey gave the Sentence, that he should be barned) or the gistracy supported, p. 55.

An Exact don, for the burning of Samtre as an Heretick, accordingly abridgement, burnt thereon, being the first writ of this Nature; is dued by the Lords alone in the Kings name, before the Statute of Heresie was made and passed in this Parliament.

abr dgement, pozal Lozos, by affent of the King, adjudged and becla.

P.407. Ted Sir Raiph Lumly Knight and our is Traytors, for ie.

wring war in fundty parts to deliver the K. & his people:

(b) Walfingh. and that they should forfeit all their lands in fee, goods H.t. Angl. P.a-d chattels, though they were (b) slain in the field of not

404, 405. arraigned nor indicted by reason thereof.

priloner.

In the (c) Parliament of 4 H.4. n. 17, 20, 21. Sir
(c) An Exact Philip Courses being complained against and convicted of abridgment P. a forcible entry into Lands, and for a forcible imprisonment of the Abbot of Members in Devenshire, and two of his Monks, was noon hearing and examination adjudged by the Bing and Loods, to be bound to his good bend to our, and other convenience to the Tower of London

(c) Walling. (d) Anno 1403. Henry Percy the younger, confederaham Hift. p. a tirg with Thomas Percy End of Warteffer, we raise forces
409 410,411. nd rebel against the King, sent Letters to the people of
Grafton,
Speed. fuam ligeantiam, et sidelitutem quam regi fecerant, nee ab
aliende exercitum congregasse, nisi pro salvatione personarum
fuarum, & reipublica meliori gubernatione, Quia census et
Tullagia Regionocessa, pro salvategni custodia, cov. reeban.

vur (us diverunt) en sesus indebitos, et inmiliter consumebantur: praterea querebantur, quod propter amulorum dilationes pessimas, rex eis insensus suerat, ut non auderent propasiter venire ad ejus prasentiam, donec Pralati, regnique Barones regi supplicassens liam Sau ation by n by ozhour the d, though) or the is of Lon. ordingly is idued e Statute enr.

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(upplicaffent pro eifdem, ut coram Rege permirerentur declavare fuam innocentiam, & per Pares luos legaliter fulli: ficart. Plures ig tur vifis nos lucris collandabant cartam vi. rorum folertiam, & extollebant fidem quam erga Rempubli. cam pretendebant. Having raifed great forces against the King by this means; which the kings forces encountred at Shrewsbury in a pitched battel; Hemy Percy and fundry of his adherents were there flain in the field, and the reit (e) An Exact of his adherents were there than in the lieb, and the abridgment, p. rouned; For which levying of war in the (e) Parliament 426, 427. of of & H.4.n. 15. the taid Henry Percy and his Corfede. rates were declared and adjudged Traptors by the King and Lords in full Parisament; and their Lands, goods and chartels conficated. In the same Parliament, n. 18. At the Petition of the Commons, The Lozds i'enred and ordered, that the Kings Confessor, the Abbot of Dore, Mr, Richard Durham, and Crosby of the Chamber, should be removed out of the Kings house and Court ; whereupon 3. of them appearing before the hing and Lozos in Parliament; the King though he excuted th. m,

yet charged them to depart from his bouse, for that they were

bated of the people. In the (f) Parliament of 13 H. 4. n. 12, 13. The Lord (f) An Exact Roos complained against Robert Thirwit one of the Justi- abridgment, p. ces of the Kings Bench, for wi bholding from him, and 479. his Tenants Common of Pasture and Turbiry in Warbie in Lincoln (hire, and lying in wait with 500 men for th: Lord Roos. Thirwit before the King and Lords confeded his fault, and submitted himself to their Order, who appointid 3. Lords to end the differenc; who made an award betwe nthem, that Thirmit shou de confeis his fault to: the Lord Roos, crave his pardon, and tender him a-

mends. In the (g) Parliament of 5 H. 5. n. TI. Sir John Old (g) An Exect castle knight, being outlawed of Treason in the Kings p. 553, 554. bench, and excommunicated before the Archbishop of Wastingham, Canterbury for Herefie, was brought before THE LORDS, Ypodig.p. 181 and having heard his conviction, made no answer nor to 184. Fox excuse thereto. Upon which Record and Process THE vol. 1. p.726; LORDS to 773.

LORD'S AD JUDGED, that he should be taken as a Traytor to the King and Realm, carried to the Tower of London, from thence drawn through the City to the new Gallows in St. Gyles without Temple-barr, and there hanged and burned hanging: which was accordingly executed.

(h) An Exact (h) Sir John Mortymer knight, being committed to ab idgment, p. the Tower upon supposition of Treason done against King 568.

Henry the 5. in the 1. year of H.6. brake out of the Tower: for which breach he was indicted of Treason: being afterwards apprehended, he was brought into the Parliament of 2 H. 6. n. 18. and upon the same Indicament, then confirmed by affent of Parliament, JUDGEMENT was given against him BY THE LORDS, that he should be carried to the Tower, drawn through London to Tiburn, there to be hanged, drawn and quartered, his head to be fet on London-bridge, and his four quarters on the four Gates of London.

(i) An Exact abridgment, p. 662,663,

In the (i) Parliament of 38 H. 6. n. 20, 2 322. Sir William Oldham knight, and Thomas Vanghan Efquire, 6,0,671,677, Were attainted of Treason by the LORDS . and in the Parliaments of I E. 4. n. 19. to 31. 4 E. 4. n. 28. 10 38. 4 E. 4. n. 34. to 40. fundry Knights, Esquires, Citizens and Commoners are attainted of Treason by the Lords for levying warr, and holding fores against the King, then after by Bill whose names are overtedious to reherse; which you may peruse at leisure in the Exact Abridgement of the Records in the Tower.

> To omit all other presidents of this Nature in the reigns of King H. 7. 8. Ed. 6. Qu. Mary, and Qu. Elizabeth, of Commoners censured in and by the Lords house in Criminal causes, upon impeachments, complaints, petitions, which those who please may find recorded in the Journals of the Lords house; I shall recite only some few Prefidents more of late and prefent times.

(4) In the Parliaments of 18. & 21 Iacobi, Sir Giles (k) Cooks 4 Inftit, p. 23. Mompesson, and Sir John Michel, upon complaints and impeachments by the Commons for promoting Monopolis, Corruption, and other Mildemeanors, were fined,

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imprisoned by Judgement of the Loras Honje, and Sir Giles degraded of his knighthood.

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In the Parliament of 3. Caroli, the Commons impeached Roger Manwaring, Dr. of Divinity; for preaching and printing Seditions and dangerous Sermons; and fent up this Declaration against him to the Lords. June 14. 1628.

For the more effect nal prevention of the apparent ruine and destruction of this king dom (which must necessarily ensue, if the good and fundamental Laws and customs therein established should be brought into contempt and violated, and that form of government thereby altered, by which it hath been fo long main: ained in peace and happiness:) And to the honour of our Soveraign Lord the King, and for the preservation of his Crown and Dignity, the Commons in this prefent Parliament assembled, do by this their Bill shew, and declare against Ro. ger Manwaring Clerk, Dr. in Divinity, that whereas by the Laws and Statutes of this Realm, the Free Subjects of Eng. land doe undoubtedly inherit this right and liberty, not to be compelled to contribute to any tax, tallage, aid, or to make any Loans, not set or imposed by common consent by Act of Parliament, and divers of his Majesties loving Subjects relying upon the said Laws and Customs, did in all humility refuse to lind such sums of mony, as without authority of Parliament ne elitely required of them.

Nevertheless he the said Roger Manwaring in contempt, and contrary to the Laws of this Realm, hath lately preached in his Majesties presence two several Sermons: That is, the 4 day of July last, one of the said Sermons, and upon the 29. da . of the same meneth the other of the same Sermons: Both whice Sermons he hath since published in print, in a Book entitule. Religion and Allegeance; and with a wicked and malicious intention to seduce and misguide the conscience of the Kings. most excellent Majesty, touching the observation of the Laws and Customs of this kingdom, and of the rights and liberties of the Subjects, to incense his royal diffleasure against his good Subjects forefusing, to subvert, scandalize, and impeach the good Laws and Government of this Realm, and the Authority of the High Court of Parliament, to avert his Ma esties mina Zz frem

from calling of Parliaments, to alienate his royal heart from his people, and to cause sealousies, sedition and division in the kingdom: He the said Roger Manwaring doth in the said Sermons, and book persuade the kings most excellent Massely.

First, That his Majesty is not bound to keep and observe the good Laws and Customs of the Realm, concerning the rights and liberties of the Subjects asurementioned, and this his royal will and command in imposing loans, taxes, and other aids upon his people, without common consent in Parliament, doth so far bind the Subjects of this Realm, that they cannot refuse

the same without peril of eternal damnation.

Secondly, That those his Majesties loving Subjects, which refused the loan aforementioned, in such manner as is before recited, did therein offend the Law of God, against his Majesties supream authority, and by so doing became guilty of impiety, disloyalte, rebellion, and dis obedience, and lyable to many other taxes and censures, which he in the several parts of his book doth most fasty and malutiously lay upon them.

Thirdly, That authority of Parliament is not necessary for raising of aids and subsidies, that the slow proceedings of such assemblies are not sit for the supply of the urgent necessities of the estate; but rather apt to produce sundry impediments to the just designs of Princes; and to give them occasion of dissease

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All which the Commons are ready to prove, not only by the general scope of the same Sermons, and books, but likewise by several clauses, aspersions and sentences therein contained, and that he the said Roger Manwaring by preaching and publishing the Sermons and book asorementioned, did most uniawfully abuse his holy function instituted by God in his Church, for the guiding of the consciences of all his servants, and chiefly of soveraign Princes and Magistrates, and for the maintenance of peace and concord betwiex all men, especially between the King and his People, and hath thereby most grievously offended against the Crown and dignity of his Majesty, and against the prosperity, and good government of this estate, and Commonwealth.

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And the said Commons by protestation saving to themselves the liberty of exh biting of any other accusation, at any time hereafter, or impeachment againg the said Roger Minwating, and also of replying to the answers, which he said Roger shall make unto any of the maters contained in this present bill of complaint, and of offering further proof of the premises, or of any of them, as the cause (according to the course of the Parliament shall require) Do pray, that the said Roger Manwaing my be put to answer to all and every the premisses, and that such proceeding, examinat on, trial, sudgement, and exemplary punishment may be thereupon had and executed, as is agreeable to Law and Justice.

On June the 14, 1628. the Lozos fending a meffage to the House of Commons, that they were ready to give subgentent against Manmaring; it he House of Commons would demand it. Thereupon they went with the Speaker up to the Lords House, having agreed he should demand judgement in these words, which he then used at the Lords Bar : The Knights, Citizens and Burgeffes of the House of Commons have impeached Roger Manwaring of lundry missdemeanors, and your Lordships having taken confider at on thereof . ther doe now by me their Speaker Demand subgement against them, Which upon reading his imperchment, and full proof thereofour of his Sermons, in his presence, was done accordingly. The Judgement was given and pronounced by the Lord Keeper, all the LORDS being in their Robes, and Manwaring at the Bar, it was delivered in these words.

"Whereas Roger Manwaring Doctor in Divinity hath been impeached by the House of Commons for misde"meanors of a high nature in preaching two Sermons before his Majestie in Summer, which since are published, in print, in a Book instituted Religion and Allegi"ance; and in another Sermon preached in the Parish of
"St. Giles in the Fields the 4th. of May last: And their
Lordships have considered of the said Manwarings answer,
"thereunto, expressed with tears and grieffor his offence, most humbly craving pardon therefore of the

"Lords and Commons; yet neverthel me, for that it can be no satisfaction for the great offence wherewith heis

charged by the faid Declaration, which doth evidently

"appear in the very words of the faid Sermons, their Lordships have proceeded to judgement against him, and "therfore this High Court doth adjudge,

"First, That Dr. Manwaring shall be imprisoned du-

"ring the pleasure of the House.

" 2ly. That he de fined at 1000 / to the King.

"3ly. That he shall make such submission and acknowledgement of his offences, as shall be set down by a
"Committee in writing, both at the Bar, and in the
"House of Commons.

"4ly. That he shall be suspended for the time of 3 years from the exercise of the Ministery, and in the

"mean time a sufficient preaching Minister shall be provided out of his living, to serve the Cure; this suspen-

"fion and this provision of a preaching Minister shall be done by the Ecclesiastical Jurisdiction.

" 5ly. That he shall be for ever disabled to preach at the

"Court hereafter.
"Gly. That he shall be hereafter disabled to have any

" Ecclefiastical dignity, or secular Office.

"7ly. That his faid Book is worthy to be burnt; and that for the better effecting of this, his Majesty may be moved to grant a Proclamation to call in the said Books, that they may be all burnt accordingly in Low don, and both Universities, and for the inhibiting the

" permitting therof, upon a great penalty.

Here we have a most direct president, where the whole House of Commons by their Speaker acknowledge the right of judicature in the case of a Commoner to be only and wholly in the Lords, even in a criminal cause, and thereupon pray the Lords to give judgement against him upon their Impeachment, which they did accordingly in their robes, as Judges, by the mouth of the Lord Keeper their Speaker.

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In this very (1) Parliament now firting, Decemb. 21.(1) See the 7an. 14. Febr. 11. 1640. and July 6. 1641. The Com- Lords and mons House, by their Members impeached Sir John Bram - Commons Journals, Di-How Chief Justice of the Kings Bench, Sir John Finch urnal Occur-Chief Justice of the Common Pleas, Sir Humphry Daven-rences, p. 15, port Chief Baron, Judge Berkly, Judge Crawly, Baron 16. 19, 39, Weston, and Baron Trever of high Treason, and other mist Mr. Sr. Johns demeanors; . " for that they had trayterously and wicked Speech and " ly endeavoured to subvert the fundamental Laws and Declaration "established Government of the Realm of England, and against them inflead thereof to introduce an arbitrary and tyrannical st a confe-"Government against Law, which they had declared by Houses, The "trayierous words, opinions, and judgement, in the Speeches of "point of SHIP MONT by their subscriptions, and Mr. Hide, Mr. "judgement given against them in the case of Mr. Hamden Waller, Mr. in the Exchequer Chamber ; Which Impeachments they Hollis at "transmitted to the Lords House, praying THE LORD's their imto put them to answer the premiles; and uron their peachments, "examinations and trial to gibe fuch judgement upon e- The I part of examinations and that to give they have been a my legal and exery of them as is agreeable to Law and Jutice. To my legal and historical Vinavoid which judgement Sir John Finch fled the Realm "dication, &c. and the rest of them made fines and compositions to the p. 36.87. publike, and were most of them removed from their ludg. s places. After this, the Lords them'elves, as Judges in Parliament passed several judgements and censures against Dr. John Pocklington for his Sunday no Sabbath, and other Books, and against Dr. Bray for licensing them; In October 164:. The Lords fined and imprisoned (lement Walker Eig: in the Tower for tome scandalous words against the Lord Viscount Say, a Member of he House of Peers: After that the Lords alone, without any Impeach-

ment of the Commons, or their privity, impriloned, fined

and censured one Morrice, upon complaint of Sir Adam

Littleton, after a full hearing, at which I was prefent, for

forging an Act of Parliament, with four or five more of

his confederates therein, which was most clearly proved

by Witnesses upon Oath; whereby he would have defrauded Sir Adam of some Lands in Essex. And at least (m) See here

P. 36,37.

one hundred more Commoners have been committed by THE LORDS this Parliament and fined by them for leveral offences, Misdemeanors and Breaches of their Privileges, as well as Lilburn and Overton; yet none of them ever excepted against, or demurred to their Jurisdiction; nor did the Commons House ever yet except against them for these their proceedings, as injurious, or illegal; but approved and applauded this their Justice. Finally, John Lilburn himself, in his printed Pamphle, intituled; Innocency and True h sussified, p. 74, 75. (m) relates that on My 4.1641. himseis was accused of High Treason, and brought before the Lords Barr for his life; where one Littles is livery given to speak for himself, (without any demutring

to their Jurisdiction, becau e we was a Commoner) destred that his Witnesses might be heard to dear him, & was up:n Mr. Andrews Outh acquitted at the Barr of the whole bouse.

And thereupon concludes, I am refolved to speak well of those who have done me AUSTICE.

From all these punctual successive presidents, impeachments and clear con effions of the Commons Hou'e, themselves in many former and late Parliam and in this now fitting, it is undeniable; That the King and Lords joynely, and the Lords feverally without the King , have an indubitable right of Indicature, without the Commons, velied in them, not only over Peers themselves, but likewise Commoners, in all extraordinary criminal cases of Treafon, Felony, Trespass, and other Misdemeanors triable only in Parliament, which hath been constantly acknowledged, practifed, submitted to in all ages without difpute: much more then have they fuch a just, judicial, rightfull power, in cales of breach of their own privileges, of (n) which wone are, or can be Judges but themselves alone, as Sir Edw. Cook resolves, they being the supremest Court. And to deny them such a power, is to make the Highest Court of Indicature in the Realm inferiour to the Kings Bench, and all other Courts of Justice, who have power to juage and try the persons, canses of Commoners, yea to

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(n) Cooks 4 Inftir. p. 15. commit and fine them for contimits and breaches of their Privileges, as our (o) Law books rejolve, and every mans ex- (o) see Brook perience can tellifie.

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The Lords right of Indicature both over Peers and Contempts;
Commoners in criminal causes, being thus fully evided Fines pur
against the false, ignorant presences of illiterate Sestaries, Contempt &
altogether unacquainted with our Histories and Records Imprisonment
of Parliament, which they never yet read nor understood;
there remains nothing but to answer some Authorities,

Presidents, and Objections, produced against ir.

These presidents in Sir Edward Cooke, Sir Robert Cotton, and others) are of 3 Sorts.

1. Such as are produced by them only, to prove that the Commons have a Copartner-ship and joynt Authority with the King and Lords in the power and right of Judicature in our Parliaments.

2ly, Such as are objected to evidence they have a sole power of Judicature in themselves in some cases, without the Kant Lords. 3ly. Such as are urged to prove, they have no right of Judicature in Parliament in the cases of Commonish of Judicature in Parliament in the cases of Commonish of Judicature in Parliament in the cases of Commonish of Judicature in Parliament in the cases of Commonish of Judicature in Parliament in the cases of Commonish of Judicature in Parliament in the cases of Commonish of Judicature in Parliament in the cases of Commonish of Judicature in Parliament in the cases of Commonish of Judicature in Parliament in the cases of Commonish of Judicature in Parliament in the cases of Commonish of Judicature in Parliament in the cases of Commonish of Judicature in Parliament in the cases of Commonish of Judicature in Parliament in the cases of Commonish of Judicature in Parliament in the Commonish of Parliament in the

ners that are capital or criminal.

I shall propose and answer them all in order.

1. Sir Edward Cook, and Sir Robert Conon produce thefe prefidents, to prove, That the Commons have a Joint in ereit, right and share with the King and Lords in the Indicatory, or Judicial power of Parliaments; which I shall propound according to their An iquity. Prefident alleged for ir, is that of (p) A domar Bishop of (p) In Cotto-Wirchester elect, (cited by Sir Robert Cotton, in his Post-ni Posthuma, humous D fcourfe concerning the Power of the Peers & Com- p. 348. mons in Par iament in point of Indicatore) who An. 44 H. 3. asaffirms, he was then excled by the loint Sentence of the King, Lords and COMMONS, as appears by the Letter fent to Pope Alexander the 4th : (Si Dominus Rex et Regni Majores hoc vellent, meaning Adomars revocation) COM. MUNIT AS tamen ipfins ingressum jam unllatenus suftinevet. The Peers lublign this answer with their namer, and Peter de Montfort, vice totius COMMUNITATIS as Speaker or Proctor of the Commons.

I aniwer, under the favour of this renowned learned Antiquary, that this prefident is full of gross mistakes. For 1. Bishop Adomar was not banished the Realm at all. either by King, Lords or Commons, but fled out of it voluxtarily for fear, to avoid the Barons, who purfued him (q)H.R. Angl. with forces, as (q) Mat. Paris, with others, relate; which the Nobles and Generality of the Barons in direct terms inform this Pope, in another Letter fent together with (r) Mar. Paris this objected. (r) Maxime cum ipfe a regno expulsus non

Auduarium extiterit, led fponte celletit, non aufus exhibitionem fu-Additamentorum Londi- Hiria, qua fingulis, fecundum Juramenta Regis et Dio cerum debebatur, expeltare. 2. The realon why he inus ni, 1639 . p. 222.

P. 943, 959.

fled, was to avoid the Juffice of THE KING & LORDS, as they in plain terms inform the Pope; without any mention of the Comnons. 3ly, This expulsion is faid to be in 44 H. 3. or rather in 41. as () Mat. Paris and o. (1) Page 947 there inform us, An. 1458. And that is at least 5. or 8. years before any Commons, Knights and Burgesses w.re fummoned to our Parliaments, by Sir Robert Cottons, Mr. Seldens, and others confessions, and that by the Writ in 49 H. 3. Rot. Claus. m. 10. dorso. Therefore if the Commons had any vote in his banishment, it was 5. or 8. years before they were admitted into our Parliaments: and so a Banishment not in, but out of Parliament. 4ly, This Letter to Pope Alexander begins thus, Santtiffinio Patri in Christo, Alexandro &c. COMMUNITAS CO-MITUM, PROCERUM, MAGNATUM, ALIORUM-OUE REGNI ANGLIÆ; and it is subscribed joyntly by 6. Earls, and 5. Noblem n, whereof Petrus de Mont. fort is the last, VICE TOTIUS COMMUNITATIS (to wir, Communitas Comitum, Procerum, Magnatum aliorumque Regni Anglia, who writ the Letter, mentioned in the beginning thereof, not of the Commons Houle, contradistinct from the Earls, Nobles; Great-men, and Barons of the Realm) presentibus literis sigilla nostra apposumus; in cestimonium pradictorum; not by the 10 first Earls and Nobles, in behalf of themselves, the Earls, Lords and great men of the Realm, and by Peter de Mont-

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ford, as Speaker or Protter of the Commons, who (as (1) 11) An ExSir Robert Cotton himself acknowledgeth) had no Speaker at abidgeat all, in 6 E. 3. (An. 1332. being at least 74. years atRecords in
ter this Letter) nor yet till 5 I E. 3. rot. Parl. n. 87. for Tower, p. 12.
ought appears by History or Record, being 119. years 151.
after this Letter. Wherefore this president consisting of
so many mistakes (as I have more largely proved in my
Preface to Sir Robert Cottons Exact Abridgement of the
Records in the Tower) makes nothing at all for the Commons joynt Right of Judicature with the King and Lord:
The rather, because the Communities in the objected clause:
of the Letter, is not meant, of the Commons in Parliament; but the Communities or Universitas Regni popularis
essinon Nobiles, (as (m. Mat. Paris stiles them) or popular (u) Prog. 941
rabble of Commons out of Parliament.

The 2. prefident, is that of Sir Nicholas Segrave 33 E. 1. rot. 33. Cooks 3. Institutes, p. 7. & 4 Instit. p. 23. in the margin. Who being charged in Parliament in presence of the King, Earls, Barons and OTHERS OF THE KINGS COUNCEL, (not the Commons of Burgeffes, but the Indges, and Kings learned Councel as Law, or his Privy . See the Council, who were affiftants to the Lords, as I conceive, Free-holders which Sir Edward Cook militaking, would have to express Grand Inthe Commons in Parliament) then and there prefone; that quelt, p.39,40 the King in the wars of Scotland, being among his enemies, 41, 42. Nicholas Seagrave, his leigeman, who held of the King by Homage and fealty, and ferved him for his aid in that marr, did maliciously move discord and contention without cause with. John de Crombewell, charging him with many enormous. crimes, and offered to prove it upon his body. To whom the faid John answered, that he would answer him in the Kings Court, &c. and thereupon gave him his fanh. After which Nicholas withdrew himself from the Kings bost and aid, lea. ving the King in danger of his enemies, and adjourned the faid John to defend himselfin the Court of the King of France, and profixed him a cereain day : and fo as much as in him was, Subjetted, and Submitted the Dominion of the King and king dom, to the subjection of the King of France: and to effect this

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be took bis journey towards Dover to paffe over into France. All which he confessed, and submitted himself therein de also et Baffe, to the Kings pleasure. And hereupon the King willing HABERE AVISAMENTUM, to have the advise of the EALS, BARONS, LORDS, (magnatum) and OTHERS OF HIS COUNCEL, enjoyined them upon the Homage, fealty, and allegiance wherewith they were obliged to him , quod spfi fideliter (UNSULERENT, that they (hould faithfully ADVISE HIM, what punishment (hould be infilled for such a fact thus confessed ? Qui omnes, habito tuper hoc diligenti tractatu, et avifamento,&c. Who all baving had thereupon di igent debate and advise, having considered and under stood all things contamed in the faid fast, DICUNT (not by way of Judgement judicially pronounced, but of anfwer to the Kings question propounded, and as their opinion of the cause) Said, that this fact deserved loffe of life & members &c. So as this offence (notes Sir Edward Cooke) was then adjudged in Parliament to be High Treason. But under hisfavour, First, here was no judgement at all given against the party himself, but only an opinion and advice touching this case (not pending judicially in Parliament by way of Inditement or impeachment, but voluntarily proposed by the King) in answer to the kings queftion; and fo it can be no proof of any actual proper judicacure vested in both Houses. Secondly, For ought appears, this question was only propounded to the Early, Lords, Barons, and the Kings Council that affifted them; and to only to the House of Peers, not to the Commons: and answered, resolved only by them; " aliorum de Concilio suo; not expressing nor including the Commons, as I appre-

* See the Freeholders grand Inquest hend, being never fo intitled in any Parliament Records

P. 39, 49, 41, for ought I can find.

That these alii de Concilio, were not the Commons, as 1 4 Inft. p. 25. Sir * Edward Cook infinuaces, but the Kings Justices and 3 Inft. p.7. & Judges who attended them, is most clear by this passage of* Matthew Westminster, who lived and writ the story † Flores Hift. of it at that time in thefe words. "Sub illo quoque pars 2. Anno cempore, Nicholans de Segrave unus de præstantioribus 450,

France. " de regno, pro tali causa arrestatus suerat coram rege : Ae de also "lius quidam Johannis de Crombewell ipsum de proditione "arguerat. Ille autem in defensionem obtulit se duello. e King "Rex propter bella sua noluit ista pati; ille vero non the adm) and clicentiatus, et contra prohibitionem Regis, mare trapfupon the "ivit, persequens accusatorem, iplo Rege adhuc inter bliged to "hostiles acies constituto. Ideirco reputat eum Rex in " judicio vita sua contemptorem, nec per ipsum stare, y should "quin Rex ab hostibus interirer. Et ille in gratiam Ree inflitt-"gis se submisic. Cui Rex, justiciam fieri volo in judicio. ro luper Proinde JUSTITIARII (mark it, not the Commons) I baving "TRIDUO SUPER HOC CONSULTANTES, responm fidered ICUNT " derunt regi; hujulmodi hominem reum elle mortis, et t of an-"omnia bona sua mobilia et immobilia regii juris este. "Veruntamen, propter generositatem sanguinis addideeir opi-"runt, non hunc in regis contemptum, Angliam egrefof life o " fum fuisse; sed propter iram se de suo criminatore vin-(Cooke) " dicandi. Regis autem elle, polle facere milericordiam Treason. "cum eodem. Quibus Rex, O diu consultati sed inconment at "fulti! Equidem meum est posse, et velle conferre graopinion " tiam, & cui voluero, milerebor. Nec propter vos am. ially in "pline, quam pro cane. Quis in gratiam meam se submint, but 4. fir , & repulsam passus est? Veruntamen vestrum judicihe kings " um in scriptura redigatur, et pro lege amodo teneatur. proper "Proinde dictus miles ad carcerem ducebatur, ne imor ought "punitas armaret audaciam, et rigot cæteris timorem e Earls, incuteret contemnendi. Et post paucos dies, elabothem; "rantibus mulcis nobilioribus regni, et oftendentibus. ions: and " le 30 suis paribus, cinctis gladiis, corpus pro corpore, cilio (no; "et bona pro bonis, una in solidum, quoquo die Rex eum appre-"vocaverit, nec adeffet, liberatus ett, et per regem cun-Records "Ais facultatibus suis redicutus: So this Historian, which compared with the Record infallibly proves, nons, as that this resolution was given by the Earls, Barons, Lords, ces and and Judges advice, who were the only aliorum de Concilio, paffage as affiltants to the Lords then in all marters of Law, as he story

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now they are, not the Commons, of which there is no

mention in the record, or this Historian, that they were

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parties to it. And this is likewise evident by the case of Margery, the Wife of Thomas Weyland, an abjured Judge, in the Parliament of 19 E. I. Cooks I Institutes, f. 133.4. Where the Barons of the Exchequer, and Justices of the Kings Courts, were called to advise and affift the King and his Council of Lords in Parliament, in a difficulty of

Law, therein to be relolved by their advice.

And therfore it follows, that the LORDS ONLY IN THAT AGE were the Judges even of Commoners cafes. Thirdly, Admit the Commons were included; yet it proves only a right of advising and delivering their opinions with the Lords, when required by the King, not of judging or pronouncing sentence. Fourthly, Sir Ed. ward Cook citing this prefident, to prove That both Houses together have power of judicature; mult grant, that even in 33 E. 1. there were two distinct Houses of Parliament, who upon special occasions, (as now at conferences, &c.) met and advised together; and therefore the division of the Houses was before Edward the third his reign, and very probable as antient as the summoning of Knight's, Citizens, and Burgeffes to the Parliament, which fome make asantient as King Henry the first, or King Henry the 2.others no: before King Henry the third in the † 49 year his reign, Father to King Edward the first. So as this

The first Writ of fummons now ex- prefident makes quite against the Levellers and Lilbur.

49 H. 3. Seld. nour, patt 2. (e) Cook 4 Inft. p. 23. Cottoni Poft-

tant is but in nians designs and opinions. The (e) 3 and 4. Prefidents are those of Hugh And. Titles of Ho-le, his Wife, Claul. 12 E. 2. m. 5. of Gaverston and the two Spencers Exiles, 1 5E. 2. forecited : wherein the Commons gave their affents to the attainders and exiles of Gaverfton , and the Spencers , and to the reverfal of them : But this I have already proved, to be only by way of Bill, not huma, p. 347 judicature, by the legislative, not judicial power of Parliament, and that they were judicially condemned only by the Lords, therefore thele are nothing to the purpole, and against the Objectors.

The 5. and 6. are the depositions of King Ed. the 2. and Richard the 2. for their mif-government, wherin the

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Commonshad a joynt vote and concurrence with the Lords, which I shall hereafter answer in the supple-

ment. p. 429. to 460.

The leventh President is that of Eliz. Burgh Widow, Sir Robert in the Parliament of 1 E. 3. rot. Parl. r. 1 1. who complained huma p. 348, by Petition to the King, that in the reign of King Edward 349, the 2. The was by his Writ commanded to come unto him to Torke; and there by Hugh Spencer the younger, and Robert Baldock, and William Cliff his instruments, inforced by duresse to enter into an Obligation, to this effect : that if the received any who were contrary to the King, or maried any man without the Kings confent, or if the gave any lands or tenements which the held in fee or in dower to any man living without the Kings license, that for any of thefe she should for feit all ber Lands, Tenements, Goods, and Chattels to the King: as appeared by the transcript of the Bond annexed to her Bill; whereupon the prayed Grace, and emedy against this duresse, and acquittance of our Lord the King from this Obligation. Hereupon a Writ was fent to the Clerk of the Privy Seal, in whose custody the Obligation was, to bring it without delay, Coram Concilio nostro in Parliamento, ad faciendum inde ulterius, quod per idem Concilium nostrum contigerit ordinari: which being brought and delivered accordingly the 5 of March, and deliberately read in full Parliament, and agreeing with the transcript annexed to her Petition in all things: Pur ceo que avys est as Archievesques, Evesques, Counts, & BARONS & autres Grandes, et a TOUTE LA COMMO-NALTIE de la terre, que le dit escrit est fait contre ley de la terre, & enconter tout manere de reason, si fuist le dit escrit PER AGARD DEL PARLIAMENT dampne illeoques. & livera ala dit Elizabeth.

I answer, I. That this judgement was given only in a civil case touching an Obligation made by dures, not in a criminal. 217. That this Petition was directed only to the King and his Council, not to the Commons in Parliament, and the businesse heard before them. 3ly. That this being a Common case, there being then many Peti-

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tions and complaints that Parliament of bonds of this nature, the Commons joyning with the King and Lords in this judgement of Parliament in her case, was only by way of Bill, not in an ordinary way of judgement; they exhibiting & passing a Bill for that purpose as well as a Petition, as is clear by the words of the Roll, and by the printed Statute of 1 E. 3.c. 3. That fines, fales, and gifts of land, and recognizances of debt made by force and duress to this Sit Hugh Spencer, Robert Baldocke, &c.or to any of them, be defeated : And Parl. 2. ch. 15. " Where-"as many of the Realm, in the time of the Kings Father " that now is, by means of his false and evil Counsellors "have been excited by divers' to bind themselves to " come to the K. with force and arms, whenfoever they " should be fent for upon pain of life and limb, and to " forfeit all that ever they might forfeit; by vertue of " which writings divers of his land have been often de-"froyed; The King confidering that fuch writings were " made to the Kings dishonour, fithence that every man " is bound to doe to the King, as to his Liege Lord, all "that pertaineth to him, without any manner of writing; "will that from henceforth no fuch writing be made, "And that fuch as be made by the fight of the Chancellor " and Treasurer shall be shewed to the King, and the "K. shall cause all such as be made against right & reason . to be cancelled : So that this main prefident meerly falls to the ground being but by Bill.

The 8th. President that may be objected is this: Adam (w) Walsing-de (m) Arleton or Tarlton, Bishop of Hereford, in a Parlam Hist. liament held at London, Anno 1 3 2 2. was apprehended. P. 98-to ded by the Kings Officers, and brought to the Bar to be 106. Ypopig. arraigned for Treason and Rebellion, in aiding the Mortimers 1227. Antiq. and others in their wars with men and at ms; where having Eccles. Brit. nothing to say for himself in desence of the crimes object. P. 227, 228. ed, and standing mute for a space; at last he starly told the Godwins Ca-talogue of Bi-King, That he was a Minister and Member of the Church

shops, p.119, 130. Fox acts and Monuments, p. 342, p. 339, 340, and Speeds Hift. p. 679, 680, 681, 685, 686. See my Antipathy of the English Lordly Prelates, &c. p. 54, 55,

56, 265, 266, 267.

f this na-Lords in only by gement ; e as well oll, and ts, fales, force and e; oc. or Wheres Father infellors elves to ver they and to ertue of ften dengs were ery man ord, all writing; e made. ancellor and the & reafon

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of Christ, and a consecrated Bishop, though unworthy; therefore I neither can, nor ought to answer to such high matters without the confent of my Lord Archbishop of Canterbury (my direct Judge next after the Pope) and of the other Fathers the Bishops my PEERS. At which saying the Archbishops and Bishops there present, rose up, and interceded to the King for their Colleague; and when the King would not be intreated, they all challenged the Bishop as a Member of the Church, exempt from the Kings Juffice and all fecular judicature. The King forced thereuntoby their claimors, delivered him to the Archbishops sullody, to answer elsewhere for these crimes. Within few days after, being apprehended again, and brought to answer before the Kings royal Tribunal in the Kings Bench at Westminster, for his Treasons; the Archbishops of Canurbury, Tork and Dublin, hearing of Tarltons arraignment, came with their Crosser staves carried before them, accompanied with 10 Bishops more, and a great company of men, entred into the Court, and by open violence refcued and took away the Bishop from the Bar, before any answer made to his charge, chasing away the Kings Officers, and proclaiming openly, That no man (hould lay violens bands on this (Trayterly) Bishop, upon pain of excommunication, and so departed. The King exceedingly incenfed at this High affront to Justice and himself, commanded an Inquest to be impanelled, and a lawfull inquiry to be made of the Treatons committed by the Bishop, in his absence, being thus rescued from Justice. The Jury, without fear of the King, or any hatred of the Bishop, found the Bishop guilty of all the Articles of Treason and Rebellion, whereof he was indicted. Whereupon the King banished the Bishop, & seised all his temporalties, lands and goods. But yet notwithstanding the Bithop, by confent of all the Prelices, was by frong hand kept in the Archbishops custody, till he had reconciled him to the King. After which, by way of revenge he was a principal instrument of the Kings deposing and murther; which having effected, in the Parliament of

* clauf, I E.3. I E. 3. 6. this * Bishop peritions that the Indiciment and m. 13. Judgement against him, and the proceedings therein might be brought into Parliament and there nulled, as erronious, which was done accordingly: " Et quia re-"citatis et examinatis coram nobis et confilio nouro re-" cordo et procesiu prædictis, Et etiam coram Præiatis, "Comitibus, Baronibus, Magnatibus, & tota commant " tate regnt nottri, præfenti Parliamento noftro pra-"tentibus, compertum fuit, quod in eildem recordo et " processu errores manifesti intervenerunt, per allensum "totius Parliamenti admullatur: and so ne had remitution.

> I answer, that as this rescue of, proceeding, and judgement against this trayterous Bishop were singular, So is this repeal and reversal of it as erronious, before and by all the Commons and whole Parliament, as well as King, Prelates, and Nobles, and that no doubt at the special instance of this, and all the other Bishops, highly concerned in this cause. Wherefore this one Swallow makes no Summer, and proves no judicial authority joyntly with the King and Lords, fince they never joyned with them before nor fince in reverling of any fuch error upon Judgement in the Kings Bench; but only where an erronious Attainder by Bill in one Parliament was reverfed by Bill in another.

The 9th. is the Clause of King Edward the thirds Let-Cotteni Posthuma, p. 349 ter to the Pope in the 4th. year of his reign, already an-

(wered, p. 274.

The Freehol-

14, 15.

ders Grand to be ADTUDGED by the Lords and COMMONS. I an-Inquest, p. 13, fwer, this Case is somewhat m staken; For the Record only mentions, That the 21 day of May, the King gave thanks to the Lords and Commons for their coming and aid franced; on which day all the Lozds and funday of the Commons dined wich the King. After which dinner Six Ionnat Lee was brought before the King, LORDS & COM-MONS next aforefaid (who dined with the King) to anfwer certain objections made against him by William Laty-

The 10th is Sir John at Lees cafe, 42 E. 3. n. 20. faid

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mer, about the wardship of Robert Latymer; that Sir John being of power, had fent for him to London, where by dureffe of Imprisonment he inforced the faid William to surrender his estate unto him; which done, some other Articles were objected against the said Sir John, of which for that he could not sufficiently purge himself, HE was committed to the Tower of London, there to remain til be had made fine and ransom at the Kings pleasure, and command given to the Constable of the Tower to keep him accordingly. And then the faid Lords and Commons departed: After which he was brought before the Kings Councel at Westminster, which COUNCEL ORDERED the faid ward to be refeifed into the Kings hands: So as this record proves not that this judgment was given in the Parliament house, nor that the Lords and Commons adjudged Sir John, but rather the King and his Councel in the presence of the Lords and Commons, after the Parliament ended.

The 11, 12, 13. Are the cases of the Lord Latymer, (n) See the Lord Nevil, and Richard Lyons, forecited: Here, p. 283. Freeholders 284, 350. Which are nothing to purpose, the (n) Lords Grand Inalone giving judgement in them without the Commons, quest, p. 13,
who did only impeach them; and the (o) King removing (o) Cooks 4.
the Lord Latymer from his Council at their surther request: Instit. p. 23.
So that these 3. cases resute their opinions who object Cotton Posthuma, p. 249.

The 14. is the (p) Case of Weston and Gomines, A. 2. (p) Cooks 3.

10. 38, 39. In which the Lords alone gave the Judgement, Sir Robert as I have proved, p. 332, 333: Therefore pointblank a Cottons Postgainst the Objectors.

The 15. prefident is that of (q) lobn Kirby and lohn Algar, two Citizens of London, in the Parliament of 3 R. 2 Inftit. c.1.p.8. n. 18. who conceiving malice against John Imperial, (an Mr. St. Johns Ambassador sent hither from the State of Genoa, who had Argument at procured a Monopoly to surnish England with all such Law, at the wares as come from the Levant, keeping his staple at fords Attain-Southampton, killed him in London, upon a sudden quarrel der, p. 75,76. Walsingham,

Hift, Angliz, p. 255. Ypodigm. p. 128. An Exact abridgement, p. 183.

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picked with him; for which they being committed, this being a new and difficult case, and the Judges being in doubt, whether it were Treafon, or no? it was thereupon propounded in Parliament, (according to the Statute of 25 E. 3. c. 2.) like that of 25 E.3. Parl. 2. of those who are born beyond the Seas, 14 E.3.c.5. 13 E.1.c.24. 32 E.1. rot. 17. & 22. Clauf. 46 H.3.n.3. Clauf. 14E.2. dorf. 17. 17 E. 3. n. 24. 21 E. 3. n. 60. 40 E. 3. n. 14, 15. 14 E.3. n. 30, 31. 1 R. 2. n. 95. 1 E. 3. f. 6, 7. 39 E. 3. 21. 4. 40 E. 3. 34. b. Cook 8 Rep.f. 158. 3 Inflic. p.6, 7. 4 Inftit. p. 67,&c. 2 Inftit. p. 408. West-2. c24. and Bratton, 1. 2. c. 16, 1. 3. c.9. Fleta 1,2. c.6. resolving that all difficult causes are to be declared to and determined in and by Parliaments. This case being examined and debated by and between the Lords and Commons, was afterwards there declared b fore the King, and determined and agreed That this fact and murder is Areason, and a crime against the Bings Pajetty; in which case no privilege of Clergy ought to be allowed to any man. Whereupon 7 R. 2. rot. 8. Kirby and Algar were attainted of High Treason in the Kings Wallingham writes Bench, and executed as Traitors. this Parliament was held at Northampton, against the confent of most of the Realm, but especially against the will of the Londoners; that so revenge might be taken upon Kirkeby for this murder: they fearing, that if the Parliament were held at London, the Londoners would not fuffer him to be executed, without some danger to those who condemned him: whereupon he was condemned, drawn, and executed at Northamston.

To this I answer first: That Kirby and Algar were not impeached, arraigned, tried or condemned in Parliament for this Treason, but in the Kings Beneh, for if they had, the Lords only had judged and given sentence against rhem, as in all the premised cases. 2ly, Their case being new, was thought fit to be propounded to the Commons by the Kings direction, as well as to the Lords, who upon debate agreed it to be Treason. 3ly, When it had been debated, it was declared and finally resolved and agreed be-

fore

fore the King in full Parliament, and that by Bill, and the Legislative, not Judicial power, as Mr. St. John informs us. Therefore it makes nothing for the Commons right and power of Judicature; which after all these presidents all the Commons in the Parliament of 1 H. 4. n. 79. contess to have been alwayes of right in the King and Lords, and not in shem; which sways away all the forecited prefidents at

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For the prefidents of 21 R.2.n.29. 2 H.5.n.13.& 28H.6, n.19.mifrecited by Sir E. Cook, 4 Infli .p.23. & 3 Infl.p.22. they are already answered p. 296,297,299,344. And for thole of Sir Giles Nompesson, Sir John Michel, Viscount St. Alban, and the Earl of Middlefex : himfelf confesierh, (and I have here cleared, p. 303, 204.) that the notable Judgements against them were given by the Lozds, at the profecution of the Commons, who were only their profecutors, not Indges. These are all the Presidents I finde, that are objected, to give the Commons a share with the King and Lords in the Judicature in our Parliaments; which evince it not, but clearly disprove it.

The 2. fort of Presidents insitted on by Sir Ed. Cook, are to prove, 2 Judicial Authority in the House of Commons alone, without the Lords, in cales of their own Members, and Servants, in matters of elections, breach of Privilege, or mildemeanors in the Commons house; for which they have imprisoned and sometimes fined Serjeants, Baylifs, Sherifs, committed their own Members, adjudged their elections void, suspended, exclu led, ejected them the house. The I. case is that of Munction 2 Aprilis I Maria committed by the Commons to the Tower for firking William Iohnson a Burgeis. The 2. of Thomas Lucy 8 Eliz. removed out of the House for giving 4 l. to the Mayor of Westbury to be cholen a Burgels, and the Major fined and imprisoned. The 3, of Arthur Hall, 23. Eliz. who for discovering and publishing the Conferences of the House, and writing a Book to the dishonour of the house, was committed to prison. These matters were examined and adjudged in the Boule of Commons, Secundum legem & B b b 2

Consuctudinem Parliamenti, and he thereupon committed to the Tower for 6. Moneths, fined 500 marks, and expelled the Honse. And in that Parliament 18 Martis, a fine was al. feifed by the House on every Member that was ablent without leave. To these alleged by Sir Edw. Cooked Shall Supera d the ensuing; Sir Robert Brandling was committed to the Tower 27 Eliz. for firiking Witherington a Burgels. 3 Jacobi one was fined for causing a Members Servant to be arrested; though he claimed his privilege. 12 facobi Locke and Alore were ordered by the Commons to ride both on one horse, with their faces to the horses tail, for arresting a Servant of Mr. Whatlocks, then a Member, against his privilege; which was accordingly executed. In 2 Caroli, Sir George Haftings being elected knight for Leicestershire, and he then being arrested, his witnesses had their charges given them against the Sherif, and he fined. In the Parliament of 3. Caroli, Sir Thomas Savils case, 29. April 1628. Thomson Sherif, and Henloe Alderman of York for abuses in the election, were ordered to be com. mitted to the Serjeant of the House, during the pleasure of the Commons House, to acknowledge their offences at the Barr on their knees, and pay all due fees, and to make a submission in York. In 3. Caroli, Mr. John Baber was suspended the house about billetting Souldiers. In 3. Car. the Commons house committed Mr. Laughton and Mr. Trelawny to the Tower during pleasure, and Sir William Wray, and Mr. Edward Trelawny to the Serjeant at Arms, and ordered them to make a submission, & acknowledgement of their offences in the Houle at the Bar, and in the County at the Affifee, they kneeling at the Barrall the while the Speaker pronounced the Judgement against them, for writing menacing Letters to Sir John Elliot, and Mr. Coriton, and to others of the County of Cornwall, diflurbing their election, and contemning the warrant of the House when sent for. In this Parliament of 17 Caroli now fitting, the Commons house turned out fundry Members, who were Projectors, and voted out many others for Delinquency, ordering New elections in their places,

places, without the King or Lords.
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very puny date within time of memory; therefore unable to create a Law or custom of Parliament, or any right of fole Judicature in the Commons House. 2ly, They were all made by the Commons themselves, unfit Judges in their own cases, much less over one another, being all of equal Authority, and "fo unable to feclude, imprison or . See my Arfine one another, no more than one Judge or Justice to dua Regni, fine, imprison, or uncommission another; since Par in parem non habet imperium. 3ly, They are all against Law, because & cor am non Judice, the Commons House having no right or power of Judicature, much less of sole Judicature in our Parliaments, but only the King and Lords, as I have formerly proved by reasons and presidents in all ages. These presidents are but few, never judicially argued, and rather connived at, than approved by the King and Lords, taken up with other more publike bufineffes; therefore paffing fub filentio, they can make no Law rule, or right, as is refolved in Long. 5 E. 4. f. 110. Cooks 4. Reports, f. 93 94. Slades cafe, & 6 Report, f. 75. Druries cafe. 5ly, There are many express antient Presidents, Statutes, Judgements, in most former Parliaments to the contrary, fundry of them upon the Commons own Petitions and complaints, which will over ballance and controll these few late Presidents warranted by no old Records or Statutes what soever, but contradicted by the constant practice of former ages; To clear which truth beyond contradiction, I shall shew you the very Original of the Commons fummons to Parliament by the Kings writs, (out of meer grace, not antient right or custom,) with the leveral varieties of Writs, Statures touching elections of Knights, Citizens, Burgeffes, and chief cases resolved in Parliaments touching Elections & breaches of Privileges, relating to Members or their menial Servants, that I finde upon record, which will abundantly clear this point, and refute these irregular puny prefidents.

The original of our Parliaments, as now constituted, of King,

(1) Polydor King, Lords and Commons, is by (1) several of our Histori-Virgil, Holin- ans, Antiquaries, and Writers, referred to the 16. or 17. fhed, Speed, year of King Henry the 1. or at least to Henry the 2. his Sir Walter reign; which I have already refuted, by a particular lift Raleigh his of all the Parliaments under them : Yet many of this o. Prerogative of Parl, p.2,3, pinion affirm, that the Commons were not constantly The Freehol- fummoned to our Parliaments, but only the Lords Spiriders Grand tual and Temporal, before the 49. of King Henry the 3. inquest, & and beginning of Edward the 1. his reign, neither had others forecited, p. 165, they a Speaker, till 51 E. 3. Therefore no power of Judicature over their Members. The first Writ I finde ex. tant, that favors of fummoning Knights to Parliament, is that in the 15. year of King John, wherein this King fent a Writ to the Sherif of Oxon in these words.

(2) Claus. 15
Joh. Reg.pars
Joh. Reg.pars
2. m.y. dorso, omnes Milites Balliva tua, qui summoniti fuerum esse apud
2. m.y. dorso, omnes Milites Balliva tua, qui summoniti fuerum esse apud
Seldens Ti- Oxoniam, ad Nos à die Omnium Santsorum in 15. dies, vetles of Honor, nire facias cum armis suis, Corpora vero Baronum, sine
P. 710. armis singulariter: et IV. DISCRETOS MILITES DE
COMITATU TUO illuc venire facias ad Nos ad eundem
terminum, AD LOQUENDUM NOBISCUN DE NEGOTIIS REGNI NOSTRI. Teste meipso apud Witten
11 die Novembris.

Eodem modo scribitur omnibus Vicecomitibus.

This is no Writ of Summons to Parliament, as some take it, but rather to a Military Council, as I conceive it. For 1. There is no mention of any Bishops, Abbots, Priors, Spritual Lords, Citizens or Burgesses summoned thereto; but only of Barons without arms; and Knights with arms. 2ly, Of all knights they had formerly summoned to appear there. 3ly, Of 4. not 2. discreet Knights out of every County; and that not ad Parliamentum nostrum, but, ad Nos venire facias. 4ly, They were not to be elected by the people, but immediately summoned, elected and sent by the Sherifs themselves. 5ly, They were to come ad loquendum nobiscum, not, ad faciendum & consentienaum biss.

hiis, Oc. as the usual Writs of Summons for Knights of Shires are fince; without any power of Judicature to fine, seclude, or question one anothers elections or recurns, as now.

The very first express writ extant in History or Records that I can meet with upon fearch, for the calling of Knights, Citizens and Burgesles to Parliament, is in (3) (3) Clauf, 49 49 A 3. where the King after the battel of Evelham by H. 3. m. 10. his Writs lummoned no lefs than 64 Abbots, 36 Priors, derfo in schebesides the Bilhops, and 5. Deans of Cathedrals, and the dula. Seldens Temporal Earls and Barons, only 23. in number, the reft nor, p. 717, Afret 718.723,714. being flain in the field, or in a fual rebellion. their Writs of Summons and name, ollows this Writ of Note of fummons for Knights, Citizens, and Burgeffes, and Barons of the Cinqueports. Item mandatum eft fingn. lis Vicecomitibus per Angliam, quod VENIRE (not, elegi) FACIANT dues Milues de Legalfozibus, Dobtozibus, et discretiozibus Pilitibus singulorum Comicatuum A'D KEGEM Lonjouns. in Octabis pradictis, in forma supradilta. Item in forma pradicta scribitur CIVIBUS Eborum, Civ bus Lincoln, & cateris Burgis Anglia, quod mittant in forma pradict. DUOS DE DISCRETIORIBUS. LEGALI-ORIBUS & PROBIORIBUS TAM CIVIBUS QUAM BURGENSIBUS SUIS. Icem in forma predicta man latu est Baronibus et probis homenibus Quinque Portuum, prout continetur in brevi invotulato inferius. Here the King 1. limited both the number and quality of the Knights, Citizens and Burgelies, when first summoned to our Parliaments: 2ly, He directed particular Writs to ail Sherifs to lummon (not to elect by the choice of the Freeholders) two of the legalleft, honestelt & discreetest Knights in their Counties, which they alone were then to make choice of : 3ly, He fends particular Writs to some (not all) Cities, and the rest of the Burroughs of England, to fend two of their difereeteft, legallest and honestest Citizens; and so to the Cinqueports to find such Barons to this Parliament, And if they returned any not thus qualified, against the form of these Writs, no doubt the King himself might refuse, seclude

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them: and he with his Lords, were the fole Judges of their fitness for that service, not they themselves to judge of their own or their fellow Members fitness or incapa16

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The first seclusion of any Knights, Citizens and Burges. fes in Parliament, and electing others in their places, was by the King himself with his Councils advice, (not by the * Commons themselves) for wilfull absence. Claus. 5 B.2.m. 26 dorso: where divers Knights of Shires, Citizens and Burgeffes departing from the Parliament held at London, without the Kings special license, the King thereupon issued out Writs to the Sherifs of York (hire and other Counties, to lummon all fuch Knights, Citizens and Burgelfes within their Bayliwicks to return to the Parliament, bel alle os ad hoc fooneos loco ipfozum, fi ad hoc bacare non poffunt, eligere, &c. or to cause others who were fit to be elected in their places, if they could not attend the Parliament; with sufficient authority from the Counties, Cities, and Boroughs, to confent to thole things which should be ordained at the next Session of Parliament, then provogued to a certain day. Here the King alone by his Writ takes authority to discharge those Knights, Citizens and Burgesles, who departed from the Parliament without his license, and would or could not attend it, without the Commons votes or affents; and to command the Sherif to elect other fit persons in their places.

Clans. 4 E. 3.m. 13 Dorso. The King having issued out writs of Summons to Parliament, dated Octob. 23. The 3 of November following he sent writs to all Sherifs, to proclaim in all places, "That he being informed of divers oppressions and injuries done to sundry people of his Realm, by divers of his Officers and Ministers, and likewise by some of his Counsellors, by reason of his tender age, to his damage and dishonour, which things he would not suffer, and desired to redresse; that there upon any persons which would complain of any oppressions, durances, and grievances done to them against "right, and the Laws and Usages of this Realm, should repair

ges of judge ncapa. urgef. S, Was by the 9.2.m. dBurwithillued nties, withl alt pofto be Parnties, which proro-Writ s and ut his it the Sherif flued . 23.

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"repair to Westminster the next Parliament, and there "Thew their plaints to him, and fuch as he should appoint, " where they should receive convenient & speedy remedy. "Then follows this Claule. "And because before these times, some of the Knights who have come to Parliament for the Communalties of Counties, have been peo. ple of covyne; and maintainers of falle quarrels, and "have not suffered that good men should declare the "grievances of the Common people, nor their things, "which ought to have been redtetted in Parliament, to "the great damage of us and our people: We command "and charge you, that you cause to be chosen by the "common affent of the County, two of the most loyal, (or lawfull) and most sufficient Knights or Sergeants of Esquires, the said County, who are not at all suspected of any 3, 26 E. 3. 37. "crime, nor common maintainers of Parties, to be at the Firz Droit "faid Parliament, according to the form of our Writ 37. which you have received, And this you may not fail to doe, as you will eschew our grievous indignation. Here the King by a special Writ takes care to prevent the election of Knights of Shires that were any way guilty of crime or maintenance, as in former times had been uled, and that the loyalles and most sufficient Knights or Equires in the Connty should be elected by common consent, because when once duly chosen and returned by the Counties, as their lawfull Proxies and Attornies, and impowred by them as such; neither the King nor Lords could justly feclude or eject them; much less the Commons House (as they have ejected Projectors & other Members of late times) having no fuch authority given them by their Writs or retorns, but only to affent to fuch things, as by the Common advice of the King, Lords, and Commons shall be there agreed concerning the King, Church, and

Realm; and being all of equal rank and power, as Attor-

nie. & Proctors for the Counties, Cities, and Burroughs,

for which they serve, can no more discharge or eject

one another, than one Attorny, Proctor, Grand-Jury.

man, Juror, Justice of Peace, Judge, Commissioner, or Exccutor , ecutor, discharge or remove another of his Colleagues, e. qually impowred, intrusted with them by the parties

they represen:.

To emit the lummoning of fundry Merchants to attend the Parliament and Council, to be advised and treated with upon fundry occasions, in the Clause Rolls of 11, 12, 13, 14, and 16 Edw. 3. Clause. 26 E. 3. m. 14. dorf. there is a Parliamentary Council summoned, to wit, two Knights are by the Writ to be chosen and sent out of every Counry, and but one Burgess out of every Burrough: Clause. 27 E. 3. m. 12. dorfo; Summonitio Concilii; the Writ commands only one Knight to be chosen, and sent out of every County, but a Citizens and Burgesses out of every City and Burrough: And the Prologue of the printed Stanue of the Staple made therein, 27 Ed. 3. recites, that there was in it only, of every County one Entight for all the County, according to the similation in the Writ.

Claus. 45 E. 3. m. 29. The Parliament having granted a Subsidy to the King payable out of every parish, and then departing, the King for the better and speedier levying thereof, desired the advice of the Commons, yet would not put them to the trouble to meet all together; And therefore issued out Writs to summon one Knight out of every County, and one Citizen and Burgels out of every City & Borough, that had been of the former Parliament to meet together at Winchester. Woo meeting accordingly, had their expences allowed them. Dors. 22. Here the King summons only half the Commons House, to compleat what the whole had granted; without the other moity, for their greater ease and saving expences.

In the Parliament of 46 E. 6. n. 13, 14. There was this Ordinance made and read; Becamfe that men of Law which pursue divers businesses in the Court of the Kings for particular persons, with whom they are of Counsel, procure and make divers Petitions to be preferred in Parliament, in the name of the Commons, which nothing concern them; but only those singular persons, or those whom they cause to put

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to put them them in : as also Sherifs, which are common Officers to the peo. ple, and ought to reside upon their Office, to dee right to every man, are named, and have been before the fe hours resorned Knights of Shires in Parliaments by the Same Sheriff. It is agreed and affented in this Parliament , that from benceforth no man of Law pursuing butineties in the Courts of the hing, not Sherif, for the time that he is Sherif, thall be returned of accepted unights of Shires; and that those who are men of Law and Sherifs now resurned to Parliament hall have no wages. But THE KING WILL that Knights * Esquires. and * SER JEANTS of the best esteem in the Country , shall be honoeforth returned Knights in Parliament, and that they shall be chosen in full County. Sir Edward Cook informs us, That this Ordinance was made in the Logos boute, (to 4 Inftir, p. 10, wir by the King and Lords without the Commons, as he 48. infinuates) If fo, hen the K. & Lords alone in that age, had the fole power, I. of disabling, seeluding unfitting Members, as practifing Lawyers and Sherifs, to be elected knights of Shires for the future. 2ly. of depriving them of wages, though elected for that Perliament before the Ordinance made; but not of ejecting them out of the House when duly elected, because till now there was no Law or Ordinance against their choice. 3ly. Of rejecting and refusing to accept fuch for knights, if elected and returned after this Ordinance; as the words, ne acceptez chivalers des Countees, superadded too ne foient returnez imply. 41y. By vertue of this Ordicance, all Sherifs of Counties have been not only disabled, but prohibited to be elected knights, & Members of the Commons House, by this special Clause inserted into all writs for elections. Nolumns autem quod tu, vel aliquis alius Vicecomes ALIQUA LITER SIT ELECTUS. Now the Writ being the fole authority and ground for all elections, prescribing the Freeholders to elect 2 of the most discreet, fit & sufficient persons, and precisely inhibiting the election of any Sherifs in any fort, either for Knights, Citizens, or Burgeffes, by vertue of this Ordinance. The elections of such are meerly void, and the King and Lords may juffly feelude

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them,

P. 414.

Sherifs have been feeluded by this Claute and Ordinance ever fince; so in the Parliament of 6 H. 4. All Appren. tices, and other men at Law, were likewise secluded by this special Clause inserted into the Writs of Summons. No. lumus autem quod tu, seu aliquis alins Vicecomes regni nostri aut Appzentius, aut aliquis alius bomo ab Legem aliqualiter fit electus, as appears by the Exem lincation thereof in the (lanf. Roll of 5 H. 4. pars 2. m. 4. dorfo, in the Tower, (which I have viewed with mine own eyes) by fundry transcripts thereof in Mann. Historia Ang. Scripts, and by this tellimony of Thomas Walfingham, who lived, & in writ the Hillory of that time. Direxit ergo Rex Brevia Vicecomitibus, ne quolquam pro Comitatibus eligerent quonismodo milites, qui in jure Regni bel boat fu istent vel Apprenticit, sed tales omnino mitteren ur ad boc n. gotium que conftat ignorare cu ufque juris methodum, factumque eff ita. Whence he flites it in his Margin, PARLIAMENIUM INDOCTORUM; No Liwyer being elected by reason of this Cianse grounded on the forecited Ordinance. Sir Edward Cook, (who is not only full of mittakes and mif-recitals of Records, but mot confident in them) citing this passage of Walfingham thus boldly contradicts him, But the Historian is pecefbed for there is no luch Clause in these Witts, but it was wrought by the Kings Letters by pretext of an Ordinance in the Lords Honse, in 46 E. 3. when as the Writ it self in the Clause Roll, concurring which walfingbam, afcertains me, that Sir Edward himself was deceived, not the Historian, by whom, or upon what mis-information I know not. And that he was to in truth, we have his own expresse confession and teltimony against himself within few leaves At the Parliament holden at Coventry, Anno 6 H. 4. the Parliament was summoned BY WRIT, and by con-

ler of the faid Ordinance of Parliament in the Lozds Boule, in 45 E. 3. it was forbidden, that no Lawyer (hould be shofen, Knight, Citizen, or Burgess by reason whereof this Parliament was fruitless, and never a good Law made

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thereat, and therefore called Indoctum Parliamentum, or Lack-latin Parliament: And feeing thefe Waits were against Law (ergo this Claufe againtt Lawyers electious was in the Writs themselves) Lawyers ever fince, (for the great and good service of the Commonwealth) have been eligible: And then contradicting himself again in the very pext lines, he addes: And albeit the probibiting clause had been inferted in the writ (implying it was not) yetb ing against Law, Lawyers were of right eligible, and might have been elected Knights, Citizens or Burge ffes in that Parliament of 6 H.4. His reason is, because Lawyers being eligible of Common right, cannot be aisabled by the said Ordinance of Parliament in the Lords House, being no Act, though Acts and Ordinances of Parl are both the same in substance vigor, (as I have elsewhere proved at large against his New See my Irefalse Dollrine to the contrary. Wherefore this Ordi- narches redinancesis fill obligatory to practifing Lawyers, whites they vivue, and practife, as well as to Sherifs, whiles they are Sherifs, Exact Abridge unleffe they give over their practice fitting the Part, to ment, Tit. attend the fervice of the House, which their practice Parliament makes them to neglect. & Ordinance.

Clause 8 E. 2. m. 31. The chief Justice, and other Officers of Ireland, and R. de Burgo Earl of Ulton, are sent for by Writ to come to the Parliament of England, ad tra-Atandum cum Parlatis et Pacceribus de regno nostro pradicto, Clauf. 50 E. 3. Dart. 2. In. 22. Pro Hibernis de Hibernia venientibus ad Parliamentum Anglia, there is a Writ directed to the Justices and Chancellor of Ireland, Quod de Communitate Comitatuum & Burgorum terra pradicta faciatis habere per Breve de magno sigillo nostro hominibus ejusdem terra nostra praditta regnum nostrum Anglia penes Concilium nostrum, pro Communitate Comitatuum O Burgorum , ultimo venientibus ; videlicet cuilibet corum de Communicate Comitatus, pro quo electus fuit, five Civitais, five Burgi, rationabiles expensas suas, &c. Teste 25 Ju-The Parliament ended the 10th of July. By which Writ it is apparent, That not only the great Officers, and some Nobles, but likewise knights and Burgesses were

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fometimes lummoned, and cholen in Ireland to come to this Parliament of England, and had Writs for wages allowed them. These varieties of the Kings writs for ele-Ging Knights and Burgeffes, fummoning sometimes 4, fometimes 2. fometimes but one Knight out of a County; most times 2 Citizens and Burgestes, sometimes but one; limiting the qualifications of their persons, and summoning not only Great Officers and Peers, but likewise, Knights, Citizens and Burgesses out of Ireland, and particular persons by name amongst the Commons, as in 32 Ed. 3. part 2. m. 32. dorfo, together with his making of new Burroughs by his Patents, and authorizing them to fend Burgeffes to Parliam. when they never fent any before, there being now three times as many Burgestes of Parliament as there were in the reigns of King Edward the 1, 2, and 3. (as appears by the Writs in the Dorse of the Chuse Rolls, for their expences and wages) are clear proofs and evidences, that the King and his Council in the Lords House, are the sole Judges of the elections of the Knights, Citizens, Burgeffes of the Commons House; and that they themselves have no power at all to seclude or eject any persons duly elected, and sent thicker by the Kings Writs, though more or leis than usual, or from new erected Burroughs. And if any City or Burrough which fends Members to the Commons House by the kings Charter or usage forfeit their Charters and Privileges, for which the king seiferh them into his hands, as in 49 H. 3. he seised Londons and others Liberties, and Cambridges fince; he may deny to fend them Writs to elect Citizens or Burgesses, till their Franchises be restored, and their Charters renewed, and deny to grant them this liberty of Election any more if he please, proceeding from his meer grace and grant to them at first, and fo to be restored out of Grace, not Justice, when forfeired by their default.

The Statute of 5 R. 2. Parl. 2. c.4. The King willeth and commandeth, & it is affented to by the Prelates, Lords and Commons, That all persons which shall from henceforth

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receive the Summons of Parliament, bahe Archbishop, come to Bishop, Abbot, Peer, Duke, Earl, Baron, Raroner, knight ages alof the Shire, Citiz in of the City, Burgels of the Burgh, or tor eleother fingular person or Com nonalty, and come not at imes 4. the faid Summons (except he may realonably and honest-County; ly excuse himself to our Soveraign Lozo the Iting) he out one; shall be amerced, and otherwise punished, as of old fummotimes bath been used to be done within this Realm, Here kewife, the Excute is to be made by the Knights, Citizens, Burind pargeffes and Commons, as well as Lords Spiritual and s in 3 2 Temporal, to THE KING, not Commons House; and king of if they cannot excule themselves unto him, then they are hemto to be amerced, as of old time have been used: And that any bewas never by the Commons House, but rather by the King, with the Lords affent in Parliament, or by India. Cooks 4 Inft. effes of Edward orfe of re clear and others, Placita In Parliamente Dom. Regis, 33 E. 1.18, 19, 20. incil in The Bishop of Winchesters Cale, Pas. 3 E. 3. co am Rege, tions of Rot. 9. attached for a contempr in departing from the Par-House: liament, during its fitting, without the Minge licente. feclude and contrary to the Lings inhibition, in contempt of the by the Bing: who pleaded, that this contempt ought to be correr from ited and amended in Parliament by the Peers, and not elfe rrough where in any inferiour Court. 3 E. 3. 19. Fitz Corone 161. by the Stanford, f. 153. 3 and 4 Phil. and Mar. B. R. rot. 39. rivile-& is most clear by 31 H. 6. n. 45,46. where special fines 8, as in are taxed on absent Lords, by the Lords affent. Therefore , and the Commons House cannot fine or tax their Members, as stoenow they doe, fince they never did it before this act, and therefore are prohibited by it; which restrains them to be re-

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ancient usage before it. In 7 R. 2. The Lord Thomas Camoyes , a Peer of the Realm, being elected Knight of the Shire for Surrey by the Freeholders of the County, the King himself discharged him by special Writ, and commanded the Sherif to cause another fit person to be elected in his place, as I

formerly proved, p. 139, 145.

ment in the Kings Bench, as Sir Edward Cook himfelf con P. 38,39, 49, felles, and proves by the Cases of Segrave, St. Amand, 41,15, 16, 17,

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H.ft. 4ngliz,

I read in " Thomas of Walfingbam, that King Richard the 3. in the 11 year of his reign, intending to call a Parliament, fummoned all the Sherifs of England to Nottingham Cattle, inquiring of them, What power they could raise for him in every County against the Barons? and charging them, ut ipsi nullum Militem de Pago vel Schira permitterent eligi, nitt quem Rer et eius Concilium elogitent, (whoir leems gave them a lift of the Names of thole perions they should elect and return, as the Major Generals have newly done:) Whereunto the Sherifs answered: That all the Commons favoured the Lords, neither was it in their power to raise any Army or Forces in this cause. De Mi. litibus eligendis dixerunt, Communes velle tenere consactudines ustatas, que volunt, quod à Communibus Milites eligan. tur. Whereupon they were dismissed. Upon this the King foon after ulfning out Writs to the Sherifs to elect Knights and Burgelles for the Parliament, inferted this unufual Caule into them : that they should chuse such Knights, as were most fit and discreet, and in the modern de. bases (between the king and Lords most indifferent : as the Writs themselves atteff.

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(1) Clauf. 11. R.2. m. 24. dorfo.

(1) Rex Vic. Kanc. falutem: quia de avisamento Consilii nostri pro quibus dum arduis & urgentibus negotiis nos, statum et desensonem Regni nostri Anglia, ac Ecclesia Anglicana contingentibus, quoddam Parliamentum nostrum apud Westm. in crastino purificationis beata Maria prox. futur. teners Ordinavimus, et ibidem vobiscum, ac cum Pralatis, Magnatibus, & Proceribus Regni nostri Anglia, colloquium habere & trastatum; tibi pracipimus sirmiter injungentes quod de Comitatutuo duos Milites gladiis cinstos, magis tooneos et ossettos, Com. pred. et in debatis modernis magis indistremens, &c. T. R. apud Wyndesore, xvii. die Dec.

But the King being foon after informed by his Council, that these Writs were contrary to the antient form of elections, and con rary to the Liberty of the Lords and Commons hitherto obtained; sent out new writs to all Sherifs,

Sherifs of England to revoke and repeal this Innovating Clause, before the Elections made.

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Rex V.c. Kanc. falutem : liser mapen per breve noftrum in- (2) Clauf. 11 ter catera tibi pracepimus firmiter injungentes, quod de Co. R. 2. m. 23. misten tuo duos Milites, gladiis cinctos, magis idoneos et difere dorfo. to Com. prad. whin Debutla Medornis magis indifferentes That, or and ded Partitions on mine no binem qued apred Werem. in Crafemo purificacionis benta Maria, pren. futur, senere Ordinavenne : all refusion diem & lucim venire faceres. Nos tamen attendentes, dictam clanfulam, in Debatis mobernis madis indifferentes, comra formam electionis antiquitus ulitata, ac contra libertatem Dominorum et Communitatis Regni nostri Anglia hactenus obtentam existere: Volentelque proinde præ lictos Milites libere eligi, modo et forma prout antiquitus fieti consuevi; Tibi precimus firmiter injungentes, quod de Com, tuo pradicio duos mihees gluchis einites magis idoneos & diferetos Com. pradicti, prout hactenus fieri confuevit eligi, & eos ad pradictos diem & loeum venire fac'. dicta claufula non obitan e : cajeraque omnia et fingula in dicto brevi noftro contenta fac. & exequaris juxtatonorem ejufdem, dictam claufulam peniins omittens. Et habens iti hoc breve et alind breve. R. apad Weffm. primo die fam.

Consmilia brevia dirigantur singulis Vicecomitibus per Angl. Ac cariffimo Avanculo R. Johanni Regi Castell. et Legionis, Duci Lancasti'. vel ejus Cancellar', in codem Ducatu sub cadem data.

A clear evidence, that neither the Sherifs nor Commons house had any power to repeal this new Clause, but the King himself, which here he did by his Councils advice, before any complaint against it in Parliament.

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In the (3) Parliament of 16 R. 2. n. 6. &c. The Wed-(3) An Exact nesday after the Parliament began, Sir Philip Courtney, re abridgement, turned by the Sherif of Devon for one of the Knights for P. 346, 347. that County, came before the King in full Parliament, and

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faid, that he understood, how certain people had accused and il indered him to the King and Lords, as well by Bill as by mouth, of heinous matters; and therefore prayed to be discharged of the said imployment, quantil the said acculations and complaints were tried, and found true, or not true : and because his faid prayer seemed honesi to the Bing and the Lozds, the hing granted bim his request. and offcharges him in full Parliament: and the Monday following, at the instance and prayer of the Commons, the thing granted, that he should be restored and remitted to bis place, according to the return of the laid Sherit, for to countel and doe that which belonged unto his office; and af er, because he had been good and treatable with those who had complained upon him, and condescended to a good treaty, he was reftored in full Parliament to his good tame. The charge sgainst him is expressed in the fame Parliament roll, n. 13, 14, where two Peritions are preferred against him to THE KING and LORDS IN PARLIAMENT, for putting Thomas Pontyngdon forcibly out of possession of the Manor of Bygeloge without just caul; and Richard Somestre out of other lands, & detaining them from them, he being so powerfull in the County, that no poor man durst to fue him. Which Petitions were referred by consent in Parliament to certain Arbi-* An Exact trators to determine. In the Parliament of 4 H. 4. n. ahidgement, 19, 20, 21, upon these and other Petitions, of forcible dis-

P. 417.

feifins, and for imprisoning the Abbet of Meniham in Devonshire, THE KING & LORDS adjudged, that this Sir Philip Courrney should be bound to his good behaviour, and committed to the Tower for his contempt.

From which records it is evident: First, that Members of the Commons house may be complained and peritioned against for misdemeanors, and put to answer before the. King and Lords in Parliament, and there fined and judged (not before the Commons house) and that this was the antient way of proceeding. Secondly, that the " Commons cannot suspend or discharge any of their fellow -Commoners or Knights from fitting in Parliament, but

See my Ardua Regni. only the King and Lords in tuil Parliament, in whom the power of Judicature refts: much less then can they expell or eject any of their Members by their own authority without the King and Lords concurrent consents: No more than one Justice of peace, Committee-man, or Militia-man, can un-Justice or remove another; since Par in parem non babet Imperium, neither in civil, military, ecclesialtical nor domestical affairs. Thirdly, that the power of restoring, readmitting a suspended Member of the Commons house, belongs not to the Commons themselves, but to the King and Lords, to whom the Commons in this case addressed themselves by petition for Courselys readmission, after his submission of the complaints against him to the arbitrement of those Members to whom the King and Lords referred the same.

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In the (4) Parliament of 17 Rich. 2. num. 23. It (4) Exact 2-was accorded and refelved by the King and Lords, at the bridgement, Complaint, petition, request of the Commons, that Roger Swinerton who was endited of the death of one of their companions, John de Ipstones, Knight of the said Parliament for the County of Stafford, slain in coming towards the said Parliament by the said Roger, should not be delivered out of prison, wherein he was detained for this cause, by bail, mainprise, or any other manner, until he had made answer thereunto, and should be delivered by the Law: The Commons alone by their own power having no authority to make such an order, even for the murther of one of their own Members, without the King and Lords,

who made this ordinance at their request.

I find this objected against King Richard the 2. in the See here, p. Parliament of 1 H. 4. n. 37. That he frequently fent his 438.

Mandates to Sherifs, to return certain persons named only by himself, and not freely chosen by the people, to be knights of Shires, thereby to effect his own ends, and oppress the people with Subsidies, But yet I find not in all his reign, any one Knight thus unduly returned, questioned by the Commons, or suspended the House, much less ejected by them, or by the King and Lords upon the Commons com-

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P. 408.

plaint thereof unto them. A clear evidence they had then no fuch power to eject their Members for being un.

duly elected securned, as now they use.

In the Parliament of 20 R. 2. D. 14, 15, 16, 17. (5) An Exact King being highly (5) offended with the Commons for abildgement, receiving Haxyes Bill, faid, that the Commons thereby bad P. 361, 362:

committed an offence against him, his dignity and liberty, the which he willed THE LORDS to declare the next day to the Commons: Who thereupon delivering up the Bill, came fort with before the King, thewing themselves very forrow. full, declaring to him, that they meant no harm, and submit. ting themselves to the king herein, most bumbly crabed his parbon. Whereupon the Chancellor by she Kings. commandment declared. That the Bing belo them ercufed. and the King by mouth declased, how many mayes they were bound unto him. Lo here the whole House of Commons Submit themselves to the King in the House of Lords, a Judges of them and their mildemeanors in Parliament,

(6) An Exact and crave pardon for offending him. In the (6) Parlia-

abridgement, ment of 2 H. 4. n. 45, 46. The Commons house pericioning the King that the Att for his moderation of the Saatute against Provisions might be exumined, for as much as the time was recorded otherwife than was agreed by them. The King granted thereunto by protestation, that the same should be no example, where after Examination by the Bithous and Loans, they affirmed the fame to be duly enered; which whe King alforemembred. Whereupon the COM-MONS s'se fame day (for this sheir milinformation) came itto the Lords House, and knieling before the Ising , beiceched the himy to parbon them, if happily shey inrough ig . nor once hador thomas offend him: which the King granted. Here the Bilhops and Lords are Judges of the Commons milinformation& milentry of an Act and the King of their

> on, and no doubt might have punished them for it, by the Lords affent and advice, had he pleased. So fart are they from being Judges in Parliament, that themselves may

> Offence against him in Parliament by this milioformation; which he pardens them upon their humble submilli-

> > there:

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there be judged, it they therein offend; as all their Speakers usual protestations and pericions to the King when (h) See Cook, presented, evidence. (4) That the Commons may have li- a Institute of 4 Inftit, p.8. berry of Speach, and that if any Members in the House of The Freehol-Commons, in communication and reasoning should speak more ders grandinlargely than of duty shey ought to dee, that all fach offences quell, p. 56, map be pardoned : which the King may punith if there te ?8. caue, unique be pardon it of secord, upon the Speakers

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Sit ((i) Edward Cook himself (as well as the Parliament Rolls, and experience) informs us of these particu- (i) 4 Inft.p.8. lars conching the Speakers of the Commons House in Parliament, their chiefelt Member. 1. That shough the Commons are to chafe their own Speaker (and that by the kings (k) See my special command and I cenfe to them in every Parliament fince Speakers to they had one, not mishout is, who linguise presentes them the an Exact atime when to profent him) yet the use is, (as in the Couge de bridgement & efferer of a Bishop) chat the king doth name a diferees and Titic, Parlilearned men to them, whom the Commons do cleft (pro for Commons, mi only) because he cannot be appointed for them without their election, being their mouse and profint broken. That after the Commmons chaice the king map refuse bim. 314. Tout after he is chofen , he must be preferred to the wing by the Commons in the Lands House for his approbation and confirmation in that place, the Commons fending up forme of their Members to acquaint the Lor is Spiritual and Temporal, that" according to the Kings command they had 23 and 25 H. choic n inch a one their Speaker, and are ready to prefent 6, n. 9, 10. him authorime appointed. 4ly. That where he is thus presented, the is so disable himself for so weighty a fervice , and to make fute to the Bing to be offcharged, and a more with stent man choien in his place : To which Ishalladde, that upon this excuse the king may discharge him of he ploafe, and command the Commons to elect another; as King (m) Henry the 8. did discharge Sir John Popham (m) Exact when pretented Speaker to him by the Commons, in the collection, p. Parliament of 26 H. 6. 4.6. upon his enouse; Whereup 643. on William Trafam was elected in his place, referred

to, and approved by the King, m. 7. sly. That when

(n) Exact

619, 620.

he is elected and approved, yet in case of fickness and infirmity he may be removed, and another chosen and presented in his place, (and that upon the Commons Special Petition to the king in his behalf, out of his meer Grace to dif. charge him, and accept of another) Thus in the ") Parlia. after his election and approbation was discharged, and

eolled. p.390, ment of 1 H. 4. W. 62, 63, 64. Sir John Cheyney Knight, Sir John Dorew Knight elected, presented, and admirmitted by the Kings license, to be Speaker in his room, So in the Parliament of 1 H. J. W. n. 7, 9, 10. LT. Will. Stm. ton Esquire, after he was chosen and allowed Speaker, was removed for grievous fickness, and John Dereward cholen in his place. At the Parliament holden 15 H.6. n. 10, 27. Sir John Tirril knight was chosen and allowed, yet removed for grievous fickness, and William Beerell chosen in his place, and that by the Kings special license and approbation, to whom all those new Speakers were

again presented by the Commons, for his royal affent (o) See 23 & thereto. 6lv. That if he be altered by his Majesty (by 25 H. 6. D. 9, (0) affent of the Council & Lozos, 'as the entry is in

the Parliament Rolls shen be maketh a proteff ation, or Petition to the king (which confifteth of three parts.) the Commons in this Parliament may have freedom of freech, as of right and custom they have used, and all their antient

(p) See Dyer (p) and just Privileges and Liberties allowed them (which f. 60, 2. (q) Rot Parl, the King usually granted with this caution) That he ho-H. 4. n. 10. ped, or, doubted not (9) That the Members would not speak An Exact A. any unfising words, or abuse this freedom and privilege; for bridgement, abule whereof some have been committed Prisoners to p. 471 See the Freeholders the Tower by our Kings and Queens command. 2ly: GrandInquest That if he shall commit any Error in any thing he shall P.56, 58, deliver in the name of the Commons, no fault may be

imputed to the Commons, and that he may refort again to them for declaration of his good intent, and that his Error may be pardoned. 3ly. That as often as necessity for his Majestiesservice, and the good of the Commonwealth shall require, he may by direction of the House

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of Commons have access to his Majedy. If then the King hath the fole power and jurisdiction thus to nominate, approve, confirm, difallow, refuse, discharge and remove the very Speakers of the Commons House themfelves, and not the Commons; but by and with his fpecial licente, grace, and royal affent : yea, to grant them freedom of speech, and their usual Privileges and liberties every Parliament upon their Petition, and to pardon' theirs and their Speakers Errors, and that fitting in the Lords House with thoir affents, then doubtieffe the king and Lords alone, are the fole Judges of the Speakers, and all other Members of the Commons House, and have the fole power to judge of their undue elections, retorns, mifdemeanors, breaches of rivileges, and all other matters concerning their Membership, not the Commons; And if they can neither constitute, elect nor remove their own Speaker for fickness, or any other cause, without the kings privity and confent declared in the House of Lords; much leffe can they suspend, seclude, or eject any Member out of the House, when chosen and returned by the Freeholders, Civizens, or Burgestes, as their Attorny or Imitee in equal power with themselves, withour the Kings or Lords contents, for any pretext of unfirmels or unducelection. And if the king (as Sir Edward Cook grams, and these presidents prove) may discharge the Speaker from his Office for grievous lickness and inability: to discharge it; I mak no question but he may likewise, upon the like Petition of the Commons or Speaker, difcharge him of his attendance in the House, or any other Member for the felf same reason, and grant a Writ to elect another able and fitting person in his place, according to the opinion of 38 H. 8. Brooks Parliament, 7. and Crompton in his furifdiction of Courts, f. 16. approved by the whole House of Commons, and accordingly practiled in 38 H. 8. against (1) Sir Edward Cooks bare opinion (without rea- (1) 4 Inst. p. 8).

In the Parliament holden at Westminster 3 H. 4. rot. (1) Exact A. Parlan. 38. (1) Thomas Thorp his Case, Isem, because that the bridgement, Write, 429.

Writ of Summons of Parliament returned by the Sherif of Roceland was not sufficiently nor duly resurned as the Com. mons conceived; the faid Commons prayed our Lord the Bing, and the Lords in Parliament, that this matter mught be duly examined in Parliament; and that in case there (ball be defaule found in this matter, that fuel a punishment might be inflitted, which might become exemplary to othersto offend again in the line manner: Whereupon our find Lordine King, in full Parliament, commanded the Lords in Parliament to examine the fair matter, and to do there in as to them Gould feem best in their differetions. And thereupon the fait Lozos caused to come before them in Barliament, as wett the faid Sherif, as William Oneby, who was resurred by the faid Sheriffer one of the Knights of the faid County, and Thomas Thorpy who was elected in full Counse to be one of the Knights of the faid Shire, for the faid Parliament, and not returned by the faid Sherif, And the foid parties being duly ex ancined, and their res fons well confidered in the faid Parliament, it was agreed by the fath 1.0106, that becanfe the faid Sherif had not made a fufficient return of the find Writ, that be thalf amend the fato return, and that he thall return the fato Thomas for one of the Taid finights, as he was elected in the faid County for the Parliament: and moreover that the fand Sherif for this defank thall be difcharges of bis Difice , mre committee Differer to the Fleet, and that he frould make fine and ransome at the infrom pleasure. Loe here the Lords in Parliament, at the Commons request, and by the Kings command, examine and give judgement in cale of an indue election, and seven without the Commons.

In this fame Parliament Richard Cheddar Elquire, a menial fervant and serendant on Sir Thomas Brook, choten one of the Knights co ferre in Parliament for the County of Samerifer, was howithly beaten, wounded, blemished and maimed by one John Savaye: Whereupon the Commons complained thereof to the King and Lords, retitioning them for redself both in his particular case for the prefent, and all others of that nature for the future,

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(u) that they might make fine at the Kings will, and render (u) Exact adouble dameges to the party maimed , whether Members or bridgement, theirs Servants. Whereupon, it was ordained and established P. 433. by the King and Lords, that for as much as the said horrible deed was done within the time of the faid Parliament, that Proclamation be made where it was done, that the faid ohn appear, and yield him felf in the Kings Beuch, within a quarter of a year after the Proclamation made: and if he do not, he shall be attainted of the faid deed, and pay to the party grieved his double damages, to be taxed by the Judges of the faid Bench for the time being, or by Enquest, if need be, and also he shall make fine and ransom at the kings will (which was accordingly executed, as appears by 8 H. 4. f. 13, 14.) And moreover, it is accorded in the same Parliament, that likewife it be done in time to come in case like. By which Petition and Act it is most apparent, 1. That the King and Lords have the sole power of judging and punishing the breaches of Privilege of Parliament, by batteries, wounding, or imprisonment, and that both in the cases of Knights, Citizens, and Burgesses, and of their menial tervants in such and the like cases. 2ly. That this Act gives the Commons no power at all to punish any man for breach of privilege in like case; but only prescribes a certain remedy for time to come, by imprisonment, action, double damages, fine and ransom at the kings pleasure in the Kings Bench; not Commons House, or Parliament, who are not fit to be troubled with such particular cases of privileges, which would interrupt the more publike aftairs. Hence THE KING willing to provide for the eafe andtranquillity of them that came to his Parliaments and Councils by his commandment, bath ordained and established (upon the Commons Petition) by the Statute of 11 H.6. c. 13. That the felf same remedy, proceeding, damages and punishment shall be had in the Kings Bench, (not Commons House or Parliament) (as was prescribed in 5 H. 4. c. 6.) against any person that shall doe any assault or affray to any Lord Spiritual or Temporal, Knight of the Shire, Citizen, or Burgesse coming to the Kings Parli-Ecc ament,

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ament or Council by his command: How then the Com. mons can judge or determine fuch violation of privileges. now against these Statutes and presidents, and create themselves Judges of them, transcends both my Law

In the Parliament of 7 H.4. (as I find in a special note. though not in the Parliament Roll) Sir John Tobetor the Speaker, prayed, que pleft le Ray & Seigniors, That it would pleafe THE KING AND LORDS, that Robert Clifford, companion of Richard Chiderough, cholen knights for the County of Kent, might appear for them both, and doe all in both their names, as if both of them were present in Parliament, which the king and Lords affented to.

In the Parliaments of 8 H. 4. n. 82. & 139. and of 11 H. 4. n. 54. Upon Petitions and complaints of the Commons to the king and Lords, there were two Statutes made to prevent the abuses and false resorms of Sherifs, touching the Elections of knights of Shires , & to inflict penalties on them by a Law (which formerly were arbitrary at the kings and Lords discretion) 7 H. 4. 6. 15. and 11 H.4. c. 1. The penalty inflicted by these Acts on the Sherif, for a fulle resurn, contrary to these Acts, is only 100%. fine to the king, and fach under recotns are from thenceforthto be examined and tryed (nor by the Commons alone by information without Outher now, but) by the Justioes infligued to take affices, and that by Enquest and due examination upon trial before the faid Justices; which is likewife afterwards ratified by the Statutes of 6 H. 6. c. 4. 8 H. 6. c. 7. 32 H. 6. c. rg. wherof if the Sherif be found guilty, he shall forfeit 100% to the king, and the knights of Counties undaly feturned, shall lofe their wages of the Parliament, of old time accultoned (not be turned out by a Committee of Privileges, and others chosen in their places by the Commons Order, as now:) And the Statutes of 1 H. 5.c, 1. 6 H. 6.c. 4. 8 H. 6.c. 7. 12 H. 6. c. 2. 32 H. 6. 15. conching elections of knights, Citizens and Burgeffes made fince the former, do not after this Law,

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nor give the Houle of Commons the least power or authority to judge or determin the legality or illegality of any elections; but leave this to the King and Lords to redrefs, as at first, before their making, and give the knights duly choien, but not returned 100 l. damages against the Shorif, and Citizens and Burgesses 40 l. against Mayors as Baylifs who make falle returns, by way of altion of Debt in the kings Courts at Westminster, where the parties must sue for relief, or in the Starchamber before the Kings Lords and Council, as in Brenkers case, Trin. 1. Eliz. not in the Commons houle, as thele Statutes and prefidents in our Law-books, Dyer, f. 113.168. Plowden, f. 118. to 131. Old Book of Engries, f. 446, 447. resolve; How then the Commons are now becom fole Judges of all false returns and elections, and that per legem et consuetudinem Parliamenti, against all these Acts and presidents, let Sir Edward Cooke and others resolve me, and the intelligent when they are able: not by the objected late arbitrary prefidents, which are of no value; but by antient uage and Law of our Parliaments and folid reason, which cannot be produced for to justifie these late Innovations and extravagances.

It is most true, that in the eases of undue elections, and breaches of privilege of the Commons house Members or Servents, the King and Lords were antiently sole Judges, (not the Commons in any one case) and that upon the Commons own Privious, as the premises evidence, and I shall fully manifest by these ensuing punctual presi-

In the Parliament of 8 H. 6. n. 39. The Commons per titioned the King for a Law to be made, to prevent the manifold tumults, uproats at, and diforders in the election of knights of the shire by the valgar rabble, and meaner fore of people, of small or no estate, (most buse and tumultuous in them, having then a voice,) that the King by abbits and allent of the Logos Spiritual and Kempozal, would secunde all from having voices at such elections for the future but freeholders, who held 40 s. freehold by the year above all reprifals

prifals (more than 40 l. a year now) or upwards. Which the King and Lords affented to: and the Statute of 8 H.6. c. 7. was hereupon made agreeable to this petition, with that of 10 H.6 c.2. by like Petition in pursuance of it. In

(1) An Exact this very Parliament of (1) 8 H. 6. rot. parl. n. 57. One abridgment, p. Villiam Lake, ervant to William Mildred 2 Biggets of Lon-

don, was taken in execution for a Debr, and committed Prisoner to the Fleer, contrary to the privilege of the Commons house; whereupon the Commons petitioned the King, that by the abbice and affent of the Lords by ritual and Tempozal, at the special request of the Commons, he migh be emarged; which the King and Lords affenting unto, gave order for his release, and authorized the Chancellor to appoint certain Commissioners to take him again in Execution, after the Parliament ended. The Commons not then claiming the least power or jurifdicion to enlarge him, or to fine or imprison those who took him in Execution, as of late times they have done. And in this Parliament, upon the petition and supplication of the Prolates and Clergy, n. 32. the King, by the attent and arbice of the Lords, enacted the Statute of 8 H. 6. c. 1. That the Clergy and their Attendants called to the Convocation by the Kings writ, should have and enjoy for ever hereafter the same liberty and immunity in going, coming and tarrying, as the Great men and Commonatty of England called, or to be called to the Kings Parliaments have used and enjoyed; they complaining to the king, that they and their fervants coming to the Convocation, were oftentimes, and commonly arrefted, Which they had no power to remolested and inquieted. dreis, but only the King and Lords, upon their complaints thereof.

(2) An Exact In the Parliament of (2) 18 H.6. n. 13. It was shewed abridgment, p to the listing and the Lords Spiritual & Temporal, that Gilbert Hore, Sherif of the Country of Cambridge, upon the kings write directed to him to chuse 2. knights for that shire, & had made no return of any knights for that Country, for certain reasons therein expressed. Whereupon the listing by advice and assent of the Lords Spiritual and Temporal,

Tempozal, (not the Commons house alone, as now, nor ver joyneis with them) ordered, that a New writ for electing 2. knights for that County should be directed to him; and that he should make proclamation, that no perfor should come to the election with arms, or arrayed in warlike manner, in disturbance of the faid election, and breach of the kings peace, A memorable prefident of the Kings and Lords Jurisdiction, even in point of elections.

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In the (3) Parliament of 23 H. 6. p. 41. The Com- (3) An Exact mons petitipned the king, that by the advice and affent of p.632. the Lozos Spiritual and Tempozal, and at their special request, it might be enacted; that every Member of the Lords and Commons house, who should have any asfault or affray made upon him, being at the Parliament, or going to or coming from thence, might have the like remedy, as Sir Thomas Parr knight had given him in this Parliament: (to wit, upon petition of the Commons in his behalfto the King and Lords, being the same as was enacted in Chedders case, & 11 H. 6. c. 11. before.) Whereunto the king answered,

The Statutes therefore made shall be observed. In the (4) Parliament of 31 H. 6. rot. parl. n. 25, 26, (4) Cook 4 27, 28. we have this memorable famous case touching Instit. p. 47. privilege of Parliament, in their very Speakers own case, toucheth it: resolved by the Lords. Thomas Thorp chief Baron, was sur cites not the Country of the Parliment for his laboration was the Record at chosen Speaker of the Parliament, after his election, and large. An Exbefore the Parliament (which was prorogued) fat, he was at abridgearrested and taken in execution at the fute of the Duke of ment, p. 651.

York: whereupon some of the Commons were fent up by the House to the king, and Lords spirmual and temporal fitting in Parliament, defixing that they might enjoy all their ancient and accultomed privileges, in being free from arrests, and propounded the case of Thomas Thorp their Speaker to them, defiring his inlargement; whereupon the faid Lords piritual and temporal, not intending to burt or impeach the privilege of the Commons, but equally after the course of Law to administer fustice, and to have knowledge what the Law will weigh in that behalf, declared to the Justices, the premises; and asked of them, whether the said Thomas oughs

ought to be delivered from profon by force and vertue of the faid privilege of Parliament on not? To the which question the chief Jutices, in the name of all the Justices aforesaid, communication and mature deliberation had among them, answered and faid; That they ought not to answer that question, for it bath not bean used afor etime, that the Justices should in any wife determine the privilege of this high Court of Parliament; fon it is so high and mighty in his nature, that it may make that Lam which is not, and that that is Law, it may make no Law, and she decermination and knowledge of their pris vilege belongeth to the Lords of the Pathaniene, and not to the Justices : But as for declaration of proceedings in the lower Courts in such cases, as writes of Superfeduar of Privilege of Parliament be brought and delivered, the faid chief Juffice faid, that there be many and divers Superfedeas of privileges of Parliament brought into the Courts; but there is no general Superfedens brought to furceafe all Proceffes, for if there should be, it should feem that this high Court of Parliament, that ministreet all Justice and equity, (hould let the process of the common Laws, and fo it should put

tipon this the party plainant without remedy, for so much as † actions ground rR. 2. at Common Law be not determined in this high Court of Parn.10.87.114. 2 R.z.n.8.49, liansent. And if any perfor that is a Member of this high R.z.n.44.13 Court of Parliament, be arrested in such cases as be not for R.12. 11.13.30. Treason or Felony, or surery of the Peace, or for condemna. 33. 15 R. v. n. treason of recony, of sweet of the reace, of for condemna.
9. 17 R. v. n. timbefore the Parliament, it is used, that all fach persons ro. We find should be released of all such arrefts, and make an Arrorthe Commons ney, fo that they may have the freedom and Liberty free-& Parliament by to attend upon the Parliament. After which answer very zealous and Declaration it was throughly agret, affentes and to maintain the Common concluded by the Lords Spiritual and Memporal, that the Law ; and re-faid Thomas, according to the Law , (bould remain Still in priferring causes fon for the eauses above said, the privilege of the Parliament, it when pro- or that the fame Sir Thomas was Speaker of the Parliament, per for it, and notwithst anding. And that the premises should be opened and improper for declared to them that were somen for the Commons of this land, and they hould be chier ged and commanded in the kings name the Parliathat they with all goodly haft and speed proceed to the election

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of another Speaker. The which remiles, for as much as they were matters of Law, by the commandement of the Lords, were opened and declared to the Commons by the mouth of Walter Moyle, one of the kings Sergeants at Law, in the prefence of the Bifton of Bly, accompanied with other Lords in notable number: and there it was commanded and charged to the faid Commons by the faid Bishop of Ely, in the kings name, that they should proceed to the election of another Speaker with all goodly haft and speed, so that the maiters for which the king called this his. Parliament might be proceeded in: and this Parliament take good and effectual conclusion and end. Whereupon the Commons accordingly elected Thomas Charlson knight, for their Speaker the next day, and acquainted the Lords therewith, and defired the kings approbation of their choice, which was accorded unto by the king, by affent of the Lords. Lohere 1. the Lords Spiritual and Temporaliare the fole Judges of the privilege of the very Speaker of the Houle of Common , who is here individual to remain in execution, notwithstanding their petition for his chiargement. 2by, The whole House of Commons could not then fend for, nor yet enlarge their own Speaker when imprisoned, but are enforced to petition the King and Lords for his enlargement. 3ly, The Lords, in the kings name, command the Commons to chuse and prefent another Speaker in his room, and that with all speed; which they accordingly did, and then present him to the King and Lords, for their approbation, who allowed of their choice.

In the Parliament of 3841 6 m. 35. Theremere divers Knights of Counties, Citizons and Burgasses named, returned, and accepted, some infoluous mithous mind due or free election some of them without any attention at all; against the counse of the Knigs Lawes, and the Liberties of the Commons of the Realm, by werene of the Kings Letters, mithout any other election, and by the means and labours of divers sedicious and evil disposed persons, only to destroy certain of the great saithfull Lords and Nobles, and other faithfull liege people of the Realm; out of harred, malice, greedy and unsatiable coverous

ness,

(s) Exact abridgement, P. 664.

ne ffe, to gain their Lands, Inheritances, Poffeffions, Offices, and goods, as the Statute of 39 H. 6. c. 1. relates. The Commons were fo farr from having power to exclude, or confirm their elections themselves; that they petitioned the Bing, by addice and affent of the Lords, That all such Knights, Citizens and Burgesses as were thus returned to this Parliament by vertue of the Kings Letters, without any other election, should be good, and that no Sherif for returning them might incurr the pain therefore provided by the Statute of 23 H. 6. c. 15. Which the King and Lords affented to at their

+ Exact atridgement, P. 665.

In the * Parliament of 39 H. 6. n. 9. Walter Clerk, one of the Burgestes of Parliament for Chippenham, was arrested and imprisoned in the Fleer for divers debts due to the King and others, upon a Capias Utlagatum; whereupon the Commons complained thereof to the King and Lords by Perition, and defired his release, and tendred them an Act of Parliament ready drawn for that purpole; to which Petition and Bill of theirs, the King by the affent of the Lords Spiritual and Temporal affented; And thereupon he was freed. Not by the Commons power, order, or judgement, but by the Kings and Lords advice and affents.

(6) Exact abridgement, P. 701.

(6) William Hyde, a Burgels of Chippenham in Weltshire, being taken in Execution, upon a Capias ad fatisfaciendum, and imprisoned in the kings Bench during the Parliament, contrary to his privilege, the Commons thereupon by a Petition prayed the King, that by abbice and affent of the Loros Spiritual and Temporal, he might be delivered for the present by a Writ of privilege out of the Chancery; which the Ming by the avoice and affent of the Lozds. granted , faving the right of his Profecutors, to have execution upon him again after the Parliament ended. 14 E.4.p. 55.

4 An Exact P. 704.

In the Parliament of 17 E.4.0.36. John at-Will, a Burabridgement, gels for Exerer, was condemned in the Exchequer upon 8. feveral Informations during the Parliament, at the profecution of John Taylor of the same Town; upon complaint thereof by the Commons to the King and Lords in Patlia-

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ment by Petition, the King by aboute and affent of the logos Spiritual and Temporal, ordered, that he should have as many Superfedent against the said Judgements and Informations as he pleased, until his coming home from the Parliament.

B. In these last recited cases, the Commons had no power at all to deliver or enlarge their own Members when imprisoned (as of late years they have practised) but always petitioned to the King and Lords for their release and relief; who thereupon released and relieved them against the breaches of their privileges, when they saw good cause. Which cases I have examined by, and transcribed out of the Parliament Rolls themselves in the Tower, and not taken upon trust, or the Abridgements of them, which leave out the main ingredients; the Commons Petitions to, and advice and aftent of the King and Lords, expressed in

the Rolls at large.

Richard Strode Gentleman, one of the Burgeffes of Parliament for the Burge of Plympson in Devenshire, in the Parliament of 4 H. 8. for agreeing with the Commons house in putting out Bills against certain abuses of the Tinners, being a Tinner himself, by the malice of John Furse Tinner, Under-Steward of the Stanneries, and his milinformation, that the faid Richard Strode at the last Parliament helden at Westminster, would have avoided, and utterly destroyed all Liberties, Privileges and Franchises concerning the Stanneries, was upon 4. Bills thereof made by the faid Furfe presented and found guilty of the premiles in 4. several Stannery Courts and condemned to forfeit 40% on every Bill to the King, upon an Act and Ordinince made by the Tinners, to which he was never warned nor called to make answer, contrary to all Laws, right reason and good conscience: And one John Aquillians begging 20 Lof the faid forfeiture from the King, caused the faid Richard to be taken and imprisoned in Lidford Castle in a dungeon, and deep pit under ground, where he was fedorly with bread and water, to the peril of his life, and was to have irons laid upon him. Upon which he Fff petitio-

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petitioned the Parliament for remedy, and that it might be ordained and enacted by the King, the Lords Spiritual and Temporal, that the condemnations against him for the faid 160% in the Stanneries, and every parcel thereof, and judgements and executions had, or to be had for the premiles, might be utterly void, and of none effect a. gainst him: which was done for him accordingly: And moreover it was enacted, That all sutes, accusations, condemnations, executions, fines, amerciaments, punishments, corrections, grants, charges, and impositions, put or had, or bereafter to be put or had upon the faid Richard, & to every o. ther person or persons that were in this Parliament, or that of any Parliament hereafter shall be, for any Bill, speaking, reafoning, or declaring of any matter or matters concerning the Parliament to be communed or treated of, be utterly void, and of none effect: And that any person vexed or troubled, or otherwise charged for any causes as aforesaid, shall have an action of the case against every person or persons so vexing or troubling him contrary to this Ordinance, and recover treble damages and cofts: And that no protection Effoign or wager of Law, shall in the said action in any wife be admirred nor received; as you may read in the Statutes at large, 4 H. 8. ch. 8. intituled, an act concerning Richard Strode: The Commons themselves being unable to releive him in this high breach of privilege, but by a petition to the King and Lords, and a special Act of Parliament made for him.

In the Parliament of 34 H. 8. there fell out this fa-(1) Holinsh, mons case, thus at large recorded by (1) Holinshed and

Chronicle, p. (2) Crompton out of him.

In the Lent season, whilst the Parliament yet conti-Intifdiction of nued, one George Ferrers Gentleman, fervant to the king, being elected a Burgess for the Town of Plimmouth, in the County of Deven, in going to the Psrliament House was arrested in London by a Proces out of the Kings Bench, at the fute of one white, for the fum of two hundred marks or thereabouts, wherein he was late afore condemned as a furety for the debt of one Welden of Salisbury, which

(2) Crompt. Courts,f. 8,9, IO.

it might Spiritual him for thereof, for the effect ardingly: u (ations, hments, had, or everyo. that of ng, reaning the roid, and led, or Il have rions lo e, and tection ninany l in the

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arrest being signified to Sir Thomas Moile knight, then Speaker of the Parliament, and to the knights and Burgesses there, order was taken, that the Serjeant of the Parliament, called S. I. should forthwith repair to the Counter in Bredstreet, whither the faid Ferrers was carried, & there to demand delivery of the Prisoner. Therupon the Serieant as he had in charge went to the Counter, and declared to the Clerks there, what he had in commindment; but they and other Officers of the City were so far from obeying the said commandment, as after many flout words, they forcibly refifted the faid Serjeant, whereof ensued a fray within the Counter Gates, between the faid Ferrers and the faid Officers, not without hurt of either part, fo that the faid Serjeant was driven to defend himfelf with his mace of arms, and had the Crown thereof broken by bearing off a stroke, and his man stroken down. During this brawl, the Sherifs of London, called Rowland Hill, and H. Suckley came thither, to whom the Serjeant complained of this injury, and required of them the delivery of the faid Burgefle, as afore; but they bearing with their Officers, made little account either of his complaint, or of his message, rejecting the same contemptuously, with much proud language, so as the Serjeant was forced to return without the Prisoner, and finding the Speaker, and all the knights and Burgeffes let in their places, declared unto them the whole cause as it fell out: who took the fame in foill part, that they altogether (of whom there were not a few, as well of the Kings privy Counsel, as also of his privy Chamber) would fit no longer without their Burgels, but rose up wholly and repaired to the Upper House, where the whole case was declared by the mouth of the Speaker, before Sir T. Andeley knight, then Lord Chancellor of England, and all the Lords and Judges there assembled: who judging the contempt to be very greatzreferred the punishment thereof to the order of the Common house. They returning to their places again, upon new debate of the Case, took order, that their Serjeant should estipen repair to the Sherits of London, and re-

quire delivery of the faid Burgets, without any well or watranc had for the fame, but only as afore. Albeit the Lord Chancellor offered there to grant a Writ, which they of the Common House refused, being of a clear o. pinion, that all commandements and other acts proceed. ing from the neather House, were to be done and executed by their Serjeant without Writ, only by thew of his Mace, which was his warrant. But before the Serjeants return into London, the Sherifs having intelligence how hainously the matter was taken, became somewhat more mild, fo as upon the faid fecond demand, they delivered the Pritoner without any denial. But the Serjeant having then further in commandment from those of the neather House, charged the said Sherifs to appear personally on the morrow, by 8 of the clock before the Speaker in the neather Honfe, and to bring thither the Clerks of the Counter, and fuch other of their Officers as were parties to the faid affray; and in like manner to take into his cultody the faid white, which wittingly procured the faid arreft, in contempt of the privilege of the Parliament; which commandment being done by the faid Serjeant accordingly, on the morrow, the two Sherife, with one of the Clerks of the Counter (which was the chief occasion of the said aftray) together with the faid White appeared in the Common House: where the Speaker charging them with their contempt and mildemeanor aforetaid, they were compelled to make immediace answer, without being admitted to any counsell; Albeit Sir Ro. Cholmsley then Recorder of L. and other the Counsel of the City then present, offered to speak in the cause, which were all put to silence, and none suffered to fpeak, but the parties themselves; whereupon in the conclusion the faid Sherifs and the fame White, were committed to the Tower of London, and the faid Clork (which was the occasion of the fray) to a place there called Little Ease, and the Officers of L. which did the arrest, called Tailer, with 4 Officers more to Newgate, where they remained from the 28 until the 30 of March, and then they

they were delivered, not without humble fure made by WELL OF the Mayor of L. and other their friends. And foralmuch beu the as the faid Ferrers being in execution upon a condemna-, which tion of debt, and fet at large by privilege of Parliament, clear oproceedwas not by Law to be brought again into execution, and so the party without remedy for his debt, as well against and exehim as his principal debtor, after long bebate of the fame thew of ar Serjeby the space of 9 or 10 days together; at last they resolved upon an Act of Parliament to be made, and to revive ligence the execution of the faid debt against the faid Welden, me what which was principal debtor, and to discharge the faid they de-Ferrers. But before this came to passe the Commons the Ser-House was divided upon the question: but in conclusithole of on, the Act passed for the said Ferrers, who won by 14 voices. The King being then advertised of all this proceeding, called immediately before him the Lord Chancellor of England and his Judges, with the Speaker of the Parliament, and other the gravest persons of the neather House, to whom he declared his opinion to this effect. First, commending their wisdom in maintaining the privileges of the House (which he would not have to be infringed in any point) alleged, that he being head of the Parliament, and attending in his own person upon the business thereof, ought in teason, to have privilege for him and all his Servants attending there upon him. So that if the faid Ferrers had been no Burgesse, but onimmely his fervant, that in respect thereof he was to have the privilege as well as any other. For I understand (quoth ounsell: he) that you not only for your own persons, but also for ther the k in the your necessary servants, even to your Cooks and Horseffered to keepers, enjoy the faid privilege, infomuch as my Lord Chancellor here prefent, hath informed us, that he being in the Speaker of the Parliament, the Cook of the Temple was re comarrested in L, and in execution upon a Statute of the stawhich ed Litple: And forafmuch as the faid Cook, during the Parliament ferved the Speaker, in that office, he was taken ift, calout of execution by the privilege of the Parliament; and ere they further we be informed by our Judges, that wee at no nd then time

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time stand so highly in our estate Royal as in the time of Parliament; wherein we as Head, and you as Members, are conjoyned and knit together into one body politick. fo as what foever offence or injury (during that time) is offered to the meanest Member of the House, is to be judged, as done against our person, and the whole Court of Parliament: which prerogative of the Court is fo great (as our learned Counsel informeth us) as all Acts and Processes coming out of any other inferiour Courts, must for the time ceale and give place to the highest. touching the party it was a great prefumption in him, knowing our fervant to be one of this House, and being warned thereof before, would nevertheless prosecute this matter out of time, and therefore was well worthy to have lost his debt, which I would not wish; and thereforefore doe commend your equity, that having loft the same by Law, have restored him to the same against him who was his debtor; and this may be a good example to other, not to attempt any thing against the privilege of this Court, but to take the time better; Whereupon Sir Edward Montague then Lord chief Juffice, very gravely declared his opinion, confirming by divers reafons all that the King had faid, which was affented unto by all the refidue, none speaking to the contrary. The A& indeed passed not the higher House; for the Lords had not time to confider of it by reason of the dissolution of the Parliament.

From this President, I shall observe, it. That this is the first President, that the Commons house ever sent their Serjeant to demand a Member imprisoned, without first acquainting the Kingland Lords: whereupon the Serjeant was thus resisted, affronted. 2ly, That upon the Serjeants report of this resistance and contempt, the Commons house did not undertake to punish it themselves, though there were many of the Kings privy Council then of and in it; but according to former presidents, went and complained thereof in the Lords house: praying them to redress and punish it. 3ly, That all the 2020s and 3100ges there

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there affembled, judged the contempt to be very great, 4ly, That thereupon (being bufied with other weighty publike affairs) they by special order, referred the examination & punishment thereof to the Commons House. 5ly. That thereupon the Commons by vertue of this (1) Special reference from the Lords, (not by their own inherent authori. (1) See the ty or Jurisdiction) sent for the delirquent parties, exami-grand Inquest ned the contempt, imprisoned the Sherifs of London, and p. 53 54. White in the Tower, and the under Officers in Newgate. 6.y. That afterwards they acquainted the King and Lords with their proceedings, who approved and commended the same. 7ly, That they would have confirmed part of their judgement by an Att, to discharge Ferrers of the execution, and not to revive it after the Parliament, which paffed but by 14. voices; and never passed the Lords house, who would not affent thereto. All which particulars unan werably evidence, that the judgement and punishment of contempts and breaches of privilege of the Commons house and their Members, belong who'ly and folely to the Lords, not to the Commons house at all; unless by special order and reference from the Lords to the Houle of Commons, who are to be informed of their proceedings and cenfores upon fuch a reference, and to ratifie them by their affents, or some Act of Parliament. Therefore the conclusion of (2) Crompton from this president, and Dyer, (2) Jurisdiaj. f. 60. (which hath not a syllable to this effect) That any on of Courts, Knight, Bargess, Baron of the 5. Ports, or others called to the London 1594. Parliament of the King, shall have privilege of Parliament . 7. b. during the Partiament or Session of it: so that he who arrests any of them during that term thall be implifoned in the Tower by the Pether House of which he is, and thall be put to a fine, and the keper also if he will not beliver him, when the Serjeant at Arms chall come for him by command of the Boufe; is but a meer mittake. And the late objected Presidents, have been grounded only up. on his Authority, and the miltaking or milapplying of (3) Pafch, 16 Ferrers cale, & 17. H. 8. (3) W. Tremynnard, a Burgess of Parliament in 35 H.8. Dyer, f. 59,60.

(the very next year after this case of Forrers) was taken in execution upon an Exigent, grounded on a Capias ad fais. faciendum, by the Sherif of Cornwal; upon a complaint thereof to the King and Lords in Parliament, there issued a Writ of Privilege in the Kings name during the Sessions of Parliament, to R. Chamond, then Sherif of Cornwall, to release him, reciting that he was a Burgels, and likewise the Cuttom of the privilege of Parliament: whereupon he was released; the personal attendance of every Member being to necessary in Parliament, that he ought not to be absent for any business, because he is a necessary Member; and therefore ought to be privileged from arrefts. Now the Parliament confifting of 3. parts: to wit. of the time as chief Bead, the Lords, the chief and principal Dem bers of the Body, and the Commons, the Inferiour Members, making up one body of Parliament; (as Chief Justice Dyer there resolves) these inferior Members, have no means to relieve themselves when their persons are arrested, but by complaint to the Head, or Chief and principal Members of this body; as in all other Corporations, where the Mayor, Recorder, Aldermen, Justices, and chief Officers are the only Judges, not the Commons, to hear and determine all injuries done to any Commoner.

(4) Cooks 4 Inftir. p. 173 18, 19.

(4) Pasch. 1. & 2. Phil. & Maria, Rot. 16. B.R. The Attorney General in the Kings and Queens name, exhibited an Information against 3.4. Knights, Citizens & Burgesses of the Commons Honse, for absenting themselves, and departing from the Parliament then held, without the Kings and Queens special license, contrary to their Prohibition, and in manifest commune of the said King, Queen and Parliament, and to the great detriment of the share of the Communeralth of this Realm, and the ill example of others. The Great Lawyer Edmond Plonder being one, pleaded he was present at the Parl. from the very beginning of it to the end, and that he departed not from it; which he was ready to verify as the Court should direct, and prayed judgement to be discharged. Edward Harford another of them, pleaded a special license to depart, whereupon his prosecution

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was layed; but fo that Process will issued against the rest. The Commons houle therefore in Q. Maries reign, were not reputed fole Judges of their own Members in cases of departure from Parliament in contempt, to the publike prejudice, and ill example of others, as now they deem themselves, by Sir Edward Cooks new-invented Law and Cultom of Parliaments.

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In the (5) Parliament of 18 Eliz. Feb. 22. A report (5) See the was made to the Commons House, by a Committee ap Journal, & pointed to consider how Mr. Halls man, then a Member, The Freeholand imprisoned against his privilege, might be released; ders Grand that the Committee found no President for setting at large by Inquest, p.54, the Mace, any person in arrest, but only by Writ of Privilege: And that by divers prefidents and records peruled by the Committee, every Knight, Citizen or Burgefs, requiring privilege for his Servant, hath used to take a Corporal Oath before the Lord Chancellor, that the party for whom such Writ is prayed, came up with him, and was his fervant at the time of the arrest made. Whereupon Mr. Hall was moved to repair to the Lord Keeper, and make fuch Oath, which he did, and then had a Writ of privilege.

In the (6) Parliament of 23 Eliz. 21 Jan. Saturday; (6) See the Mr. Paul Wentworth, moved for a publike Fast, and for a Ser - (6) See the mon every morning at 7. a clock before the House sate: The Grand In-House upon debate were divided about the Fast; 115. quest, p.54,55. were for, and 100. against it: It was thereupon ordered, That as many of the House as conveniently could, hould on Sunday fortnight after assemble and meet together in the Temple Church, there to hear preaching, and joyn together in prayer, with humiliation and fasting, for the assistance of Gods spirit in all their consultations during this Parliament, and for the preservation of the Queens Majesty and her Realm: and the Preachers to be appointed by the privy Council that were of the House, that they may be discreet, not medling with Innovation or unquietness. This Order being made by the Commons alone, without the Lords and Queens privities & affents, the Queen being informed thereof, fent a Message to the House by Master Vice-chamberlain, a Member of it; That

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her Highness had great admiration of the rashness of this House in committing such an apparent contempt of her express command (not to meddle with her person, the State, or Church-government) as to put in execution such an Innova. tion, without her privity or pleasure first known. Thereupon the Vice-chamberlain moved the Houle, to make humble Submission to her Majesty, acknowledging the said offence and contempt, craving the remission of the same, with a full pure pole, to fozbear the committing of the like bereafter. Upon which, by confent of the WHOLE HOUSE, Mr. Vice-chamberlain carried this their submission to her Majetty :: as being the Judge and punisher of their misdemea. nors even in the House it self, though caried by majority of Voices.

(7) See the Freeholders? GrandInquest p. 58, 59.

In the (7) Parliament of 28 Eliz. the Commons que. stioning the chusing and returning of the knights of the Shire for Norfolk, the Queen laid: She was forry the Commons medled therewith being a thing impertinent for that Boule to beal withall: "it belonging only to the Office of the Lord Chancellor, from whom the Writs iffue, and to whom they are returned.

(8) See the Freeholders Grand Inqueft, p. 60.

In the (8) Parliament of 35 Eliz. Mr. Peter Wentworth, and Sir Henry Bromley, delivered a petition to the Lord Keeper, desiring the Lords of the Upper House to be suppliants with them of the Lower House unto her Majesty, for intayling the succession of the Crown; whereof a Bill was ready drawn by them. The Queen being highly displeased therewith, as contrary to her former itrict command , charged the LORDS of her COUNCIL to call the parties before them, which they did; and after Speech with them commande I them to forbear the Parliament, and not to go out of their lodgings: after which Mr. Wentworth was committed by them to the Tower, Sir Henry Bromley, with Mr. Richard Stevens, and Mr. Welch, (to whom Sir Henry had imparted the matter) were committed to the Fleet, fitting the Parliament. And when Mr. Wroth moved in the House, that they might be humble suters to her Majesty, that she would be pleased to set at liberty those Members of the House that were

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restrained; It was answered by all the Privy Countellors there present : That her Majesty committed them for causes best known to ker felf, and to prefs her Highness with this fute, would but hinder them whose good is sought. That the House must not call the Queen to account for what he doth of her royal Authority: That the causes for which they are restrained, may be high and dangerous: That her Alajesty liketh no fuch que stions, neither doth it become the House to fearch into these matters. In the lame Parliament, M. Morrice, Attorny of the Court of Wards, by a Serjeant at Arms was taken out of the Commons House, Febr. 28. and committed to prison by the Queens command; for delivering in a Bill against the abuses of the Bishops, on Tuesday Febr. 27. against which many Members spake, that it should not be read: The Queen hearing of it, fent for Sir Edward Cooke, then Speaker, the same day, giving him in command with her own mouth to fignifie to the Hou'e, her difike of the said Bill preferred by Mr. Morrice, and charging kim upon bis Allegiance, if any such Bill be exhibited, not to read it. Adding, It is in me and my power to call Parliaments, it is in my power to end and determine them: it is in my power to assent or dissent to any thing done in Parliament. Lo here several Members of the Commons House, imprisoned by the Queens command by the Lords of her Council, for disobeying her express commands in her Speech, in medling in matters of State and Ecclefiaffical affaires, which the had forbidden them to do: So farr was the Commons house then from being the Judges, or sole Judges of their own Members, privileges, speeches, or actions in the House it felf, even in this good Queens late reign of bleffed memory.

In the same Parliament of 35 Eliz. when Sir Edward. Cook was Speaker of the Commons House, there fell out a question in the Commons House about the Amendment of a mistake in the return of the Burgess of Southwark: and after long debate it was relolved, that the House could not amend it, but the Lo. Keeper in Chancery, where the return was of record, if he thought it amendable by Law; and that

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t were 764 Master Speaker should wait upon the Lord Keeper about it, which he did; who advised with the Judges concerning it, as

appears by the Journal.

In the same Parliament, Thomas Fitz-Herbert of Staffordhire was elected a Burgels of Parliament, and two hours after, before the Indenture returned, the Sherif rook him prisoner upon a Capias Uslagatum; Whereupon he petitioned the House, that he might have a Writ of Privilege and be enlarged. After many dayes debate and Arguments of this cale in the House by fundry Lawyers, and Sir Edward Cooke, then Speaker; it was agreed; That no Writ of Privilege could in this case be returned into the House of Commons, being but a Member of Parliament, and no Court of Record, but only into the Chancery or House of Peers; And that this being a point of Law, it was meet the Judges (hould be advised with, and determine it, not the House: And at last he was outed of his privilege by the Houses resolution,

These forecited presidents in all ages will sufficiently prove the late objected prefidents, for the Commons fole Judicial Authority and Jurisdiction in cases of Privilege and Elections, and the suspending, ejecting, fining, feeluding, imprisoning their own Members, and such who violate their privileges, or make false returns; to be a meer late Groundless Innovation, if not Usurpation, upon the King, House of Peers, and Chancellors of England, no ways grounded on the Law and custom of Parliaments, as * Sir Edward Cooke miltakes, but point-blank against them both.

and that the Statutes concerning Elections, and attendance or abience of Knights and Burgeffer, as 5 R. 2. c.

4. 7 H. 4. C. 15. 11 H. 4. C. 1. 1 H. 5. C. 1. 6 H. 6. C. 4.8 H. 6.c. 7. 10 H. 6.c. 2. 11 H. 6.c. 11. 23 H. 6. c.

15. which (9) recice Dur Logo the Bing willeth, comman. beth and Debaineth, or hath Ordained, by advice and affent of the Logos Spiritual and Tempozal, upon comquest, p.15,16 plain', or at the special request of the Commons: (to shew

that they are only Petitioners, not Judges, not Ordainers in all or any of them,) give them not the least title

"4 Inftir. p. 15.23.

(9) See the Freeholders Grand In-

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of Jurisdiction in cases of elections, or privileges. therefore, according to the resolution of all the Judges, Hill. 2. Facobi, in the case of Penal Statutes, Cook 7 Rep.f. 37. That the profecution of penal Statutes cannot by law be granted to any, nor be profecuted or executed in any other order or manner of proceeding, than by the Acts themselves is prescribed and provided; the Commons cannot, against the Letter and provision of all those Acts, be Judges of them in any other manner or order than they prefcribe.

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As for their proceedings in the Committee of Privileges touching Elections, fince they have interposed in them as they have been very irregular, illegal, in respect all the Witnesses they examin touching them are unsworn, and give their testimonies without Oath, upon which they Ground their Votes: So they are for the most part very partial, and for that cause it is usually stiled, The Committee of Affections; he that can make the most Friends and strongest party, being sure to carry the election for the most part, both at the Committee and in the House, though never to foul, as I could instance in many cases of late times; and more especially in the case of the Election of Cirencester 1647. too foul to blot my paper with.

For their suspending, secluding, ejecting their own Members, I have sufficiently manifested its illegality long fince in my Ardua Regni; being a late dangerous president began within our memories, the fad effects and consequences whereof we now discern by these dangerous gradations. 1. The Commons began to feelude one another upon pretence of undue elections and re Cook 4 Is tornes in Queen Elizabeths reign, but not before, which fit, P. 23. they have fince continued, and that rather to strengthen or weaken a party in the Houle, then to rectifie undue elections and recorns, which a good Act would eatily do. 2ly. In the later and last Parliaments of King Charls they began to feelude Projectors, though duly elected. 3ly. They proceeded to suspend and eject such who were roy- "See an Exact

Collection of allits, and adhered to the late Kings party. 4ly. Ordinances, They proceeded to imprison and eject those Members p. 541, 542,

whom 543, to 558.

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See my Espeech in Parliament, Decemb. 4. 2648. The 2 part of the History of Independency. † See their 17 and 19 Martii 1648. & Jan. 2, 1649. See their concerning fince.

whom the Army 'Offices impeached or disliked as oppopillille to my fite to their defigns, 5ly. The Minority of the House at latt, by the power of the Army, secured, secluded, expelled the Majority, and 50 or 60. near 400 Members, and made themselves the Commons House without them. 6ly. They then proceeded to t vote down and leclude both King and House of Lords, then voted themselves to be the Parliament of England, & sole Legislators, Declarations and supream authority of the Nation, without either King and knacks of or House of Lords, or majority of their fellow Members, prescribing an Engagement under stricteft penalties, against K.& House of Lords, to seclude them from all future Parliaments. 7ly. Hereupon the TArmy Officers and Declarations Souldiers, (who made, continued them an absolute Parliament, and first of all subscribed the Engagement to be of heir diffe- true and faithfull to them without King and Honfe of Lords) lutions, Aug. at last by Divine Justice, against their very engagements 23, 1652, and to them, feeluded & suppressed them all, as they had done the King, Lords, and their fellow-Members, and daclared them to be actually dissolved, and no longer to be a Parl. or the supreme authority of the Nation. then proceeded to chuse and nominate a Parliament at Whitehall alone, without the peoples election; and then one part of them, without the religioned their new foveraign power, and secluded, disfolved the residue, and turned them out of doors. 9ly. They then proceeded to a New model of Parliaments, wherein they disabled most of the Freeholders, Citizens and Burgesses of England to be either Electors or elected Members, contrary to their privilege, and all former laws for elections: appointed those they fliled, the Council of State at Whitehall, to feelude what Members they pleafed (though duly chosen according to their new ill-tuned instruments) before or without any examination, or reason rendred for their seclusion to the secluded Members, or their Ele-Gors for their new created Parliaments: by which means they feeluded whom and how many they pleafed in all their late conventions; And most of those Reipublican Member 8 oppo-

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Members and some cashiered Army Officers, who were most active in securing, secluding their follow Members in December 1648. and in voting down the King and House of Lords; who may now justly say as Adonibezech once did in another case, Judg. 1.8. As I have done unto others, lo God hath requited me; being feeluded, fecured, cashiered, dissolved, and some of them sent prisoners to remote Castles, (as they feeluded and thus imprisoned my felf, with other their fellow Members without cause) and most justly trinded in leveral Pamplets and + Declarations for a COR. + The Decla-RUPT PARTY; carrying on their own ends, to perpetu- ration of the are themselves in their late Parliamentary and supream Au- Officers of thority; never answering the ends which God, his people, and the Army, the whole Nation expected from them, but exercizing an arbi. Aug. 22.1653. trary fower at Committees (and elsewhere) over them, P. 4, 5, 6. A likely to [wallow up the antient Liberties and Properties of the the Common-People, & to increase their vexations, &c. as they had most wealth ch unjustly taxed the secluded Members 1648 for † A COR. England, &c. RUPT MAJORITY, afting contrary to their trusts: P. 8, 9,10,11. Which I defre them now feriously to lay to heart, and tisee my Epito acknowlege Gods Soveraign Justice therein. 10ly, file to my Their new Major Generals in their last elections, pre- Speech in scribed to all Counties, and to most Cities, Burroughs, by Parliament. letters, & lifts of names fent to them, what persons they mult elect, lecluding thole they elected which were not in their lifts, and caused Sherrifs to return many they nominated, though never elected, but protested against by those who were to chuse them: rather to carry on private interest, designs, than the private or publike good Laws, Liberties, Properties, Peace, Ease of the Nation from importable Taxes, Excizes, Slaverie; and armed guards, and to fet up private Conventicles, Parties, instead of free publike English Parliaments, duly elected and constituted. These the sad effects of this Innovation and Usurpation of the Commons over their own Members, by the objected Prefidents, which by Divine Jultice, have made all their new modelled Conventions abortive, successels, yea to end in sudden confusions, and unexpected distolucions

tions ever fince. Befides, from this their late hning, im-

* An Exact Collection, p. 500, 523,526.

prisoning and judging of their fellow Members in the House, they proceeded in the last long Parl, to make almost every Committee of the Commons House, a most arbitrary & tyrannical Court of Justice, independent on the House it felf, without any report at all of their proceed. ings to the House; * authorizing Committees to secure, imprison, close imprison, cashire, banish, condemn, execute many persons, sequester, confiscate, sell, dispose their Inheritances, Offices, Lands, Tenements, Benefices, real and personal estates; to deprive them of their callings, professions; to search and break up their houses, by Soldiers and others, without any legal fworn Officers, day and night, to feize their Letters, Papers, Horfes, Arms, Plate, Money, yea debts in other mehs hands at pleasure: to indemnifie and stay their legal actions, sutes, Judgements at Law, and null their executions at their pleafures; yea to commit them till they released all sutes, actions, Judgements, and paid costs and damages to those they justly sued, and recovered against, to adde affliction to affliction, and cruelty, oppression to injustice. These are the bitter fruits of Commons usurped judicature, whereof there are thousands of most sad presidents which may hereafter be objected to prove the fole Power of Judicature to relide of right, not in the K.or House of Lords, but in the Commons House alone, and every of their Committees, especially for Examinations, Plundered Ministers, Sequestrations, Indempnity, Haberdashers and Goldsmiths Halls, Privileges, sales of Delinquents, the Kings, Queens, Princes, Lands and Estates, Excise, the Army, Navy, and the like: yea in their new created High Courts of Justice; who have acted as absolute arbitrary, unlimited, lawleffe Courts of justice in the highest degree, to the subversion, destruction of the antient Liberties, Freeholds, Properties, Great Charters, and fundamental Laws of the Nation in general, and of thousands of the highest & lowest degree of English Freemen in particular; with as much ground of reason, & Warrant from the many late Prefidents of this Nature, 15

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as these here objected, to prove a soleright of judicature in the Commons Honfe , in cales of undue elections, retorns , mildemeanors, privileges relating to their Members and their fernants. Which ftrang exorbitant Prefidents and Proceedings, if they should be made Patterns for fucure Parliaments and Committees; I shall defire all sober minded men to confider of the dangerous confequences of them, thus notably expressed by the late King in Exact Colhis Answer concerning the Ordinance for imposing and le led, p. 768 tying the 20th. part of mens estates 29 November 1642. 769, 770. After this Ordinance and Declaration, tis not in any fober mans power to believe himself worth any thing, or that there is such a thing as Law, Liberty, Property, left in England under the jurisdiction of these men; and the fame power that robs them now of the twentieth part of their estates, hath by that but made a claim; and entituled it felf to the other nineteen, while it shall be thought fit to haften the general ruine. Sure, if the minds of all men be not stubbornly prepared for servitude, they will look on this Ordinance, as the greatest prodigie of Arbitrary power and tyranny that any age hath brought forth in any Kingdom; other grievances (and the greateft) have been conceived intollerable, rather by the logick and consequence, than by the pressure it felf; this at once sweeps away all that the wisdom and justice of Parliaments have provided for them. Is their property in their estates (so carefully looked to by their ancestors , and so amply established by Us against any possibility of Invation from the Crown) which makes the meanest Subject as much a Lord of his own, as the greatest Peer, to be valued or considered? here is a twentieth part of every mans estate (or so much more as four men will please to call the twentieth part) taken away at once, and yet a power left to take a twentieth still of that which remains, and this to be levied by fuch circumstances of feverity, as no Act of Parliament ever confented 100. Is their liberty which diftinguishes subjects from flaves, and in which this freeborn Nation bath the advantage of ail Hhh

all Christendom dear to them? they shall not only be impriloged in such places of this kingdom (a latitude of judgement , no Court can challenge to it felf in any cases) but for so long time as the Committee of the House of Commons for Examination shall appoint and Order; the House of Commons it fell having never affumed, or in the least degree pretended to a power of Judicature, having no more authority to administer an Oath (the only way to discover and find out the truth of facts) than to cut off the heads of any our Subjects; and this Committee being fo far from being a part of the Parliamint, that it is destructive to the whole, by usurping to it felf all the power of King, Lords, and Commons. All who know any thing of Parliament, know that a Committee of either House ought not by Law to publish their own refults, neither are their conclusions of any force without the confirmation of the House, which hath the fame power of controling them, as if the marger had never been debated; but that any Committee should be so contracted (as this of examination, a stile no Committee ever bore before this Parliament) as to exclude the Members of the House, who are equally crusted by their Country, from being present at the Counsels, is so monfirous to the privileges of Parliament, that it is no more in the power of any man to give up that freedom, than of himself to order, that from that time the place for which he lerves, shall never more fend a Knight or Burgesse to the Parliament, and in truth is no lefte than to alter the whole frame of government, to pull up Parliaments by the roots, and to commit the lives, liberties, and estates of all the people of England, to the arbitrary power of a few unqualified persons, who shall dispose thereof according to their discretion, without account to any rule or authority whatfoever. Are their friends, their wives, and children (the greatest bleshings of peace, and comfores of life) pretious to rhem? would their penury and imprisonments he lesse grievous by those cordials? they shall be divorced from them, banished, and shall no lon-

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gerremain within the Cities of London and Westminster, the Suburbs and the Counties adjacent, and how far those adjacent Counties shall extend no man knows.

The 3 fort of Presidents and Objections are such, as Lilburn and Overton infilt on, to prove; That the King and Lords have no power at all to judge or centure Commoners in our Parliament. The only Record they infift on is the Lords own Protestation in 4 E. 3.n. 2. & 6. in the case of Sir Simon Bareford; which because I have already fully answered, p. 323, 324, 325. and cleared by fundry subsequent presidents, and there being no one president inany Parliament since to contradict it, I shall wholly pretermit, and proceed to their objections, which

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> The first and principall objections whereon they most Objection infift and rely, is the Statute of Magna Charta, chap. 29. That no Free-man shall be imprisoned, outlawed, exiled, or any other may destroyed; Nor we shall not passe upon him nor condemn him, but by the lawfull judgement of his Deers, or by the Law of the Land. Whence thus they argue: The Lords in Parliament are not Commoners Peers, but the Commons only; therefore they cannot be judged in Parliament by the Lords, but by the Commons alone; and if Peers there judge Commoners, it is a tyranny and usurpation even against Magna Charta it felf, though it be in case of privilege.

To take away this grand feeming Objection, and give Answer it a fatisfactory answer, I say: First in general, that there is scarce one Parliament ever since Magna Charta was first confirmed, but the Lords have sentenced and given Judgement against some Commoners capitally, or penally, in body, purfe, or both, without the Commons (and did fo doubtlesse before Magna Charta was made, as I have already manifelled) yet never did the Commons in any one of those Parliaments till this present, complain of it, as a violation of Magna Charta, or a tyrannical usurpation, as bilburn and Overton ftile it; but acknowledged ir as a just right in the Lords, even in 3 (a-Hhh 2

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roli it felf when the Perision of Right was pulled, in the Lords † Here p. 253. Judgement and Sentence against † Dr Manwaring a Commoner, impeached by the Commons in Parliament. And therfore for this Ignoramus alone, against the judgment of the Commons in Parlia all ages, to aver this a breach of MagnaCharta for imprisoning and fining him for the highest affront and breach of privilege ever offered to any Parlis the extremity of ignorance, malice, singularity.

Secondly, I aniwer, That the Statute of Magna Charia extendeth not to nor was ever intended of the high Court of Parliaments Judgements, Proceedings, but only to and of the Proceedings, Judgements in the Kings great Courts of Justice at Westminster Hall, the Exchequer, his Prive Council, and other inferior Courts held before Judges, Ju. flices of Asife, and other Officers, as is evident by comparing this objected Chapter with c. 11, 12, 13, 14, 18, 28, 30, 34, 37. by the Statutes of 25 E. 3. Stat. 5. c.4. 28E. 3.c. 3. 37 E. 3.c. 18. 38 E. 3. c. 9. 42 E. 3.c. 2. 17 R. z. c. 6. and the Petition of Right it felf, 3. Caroli, which so expound it; there being never any complaint against the Parliament it self or House of Peers in any age, for breach of Magna Charta, in centuring or imprisoning Commoners till now. Therefore this milapplying of this Law to the Parl. and House of Peers, is a gross oversight.

Thirdly, the very literal sence of this Law is much missiaken by the Objectors; The main scope whereof is this, That no man should be deprived of his Freehold, Liberties, Limbs, life, or outlawed, exiled, or otherwise destroyed, without legal process in due form of Law, in Courts of Justice; not by meer force, violence, injustice, arbitrary and tyrannical power, or martial Law, nor being brought to his legal trial or answer: And that none should pass upon them in any trials for freehold, or life, but only English Freemen. Now in respect of Freedom, any, every Freeman of England is a Peer to another Freeman, quatenus such a one, within this Law, though of an higher degree in point of honour, dignity, office, estate; as Knights, Efquires, Gentlemen, Teomen, Civinens, Merchants; these as Freemen,

Lords Com-. And tent of ach of highy Parl. Charia Court to and Courts Privy s, 14. com-4, 18, 5 · C · 4 · . C. 2. Caroli, int ay age, loning of this rfight. ch mie s this, liberle de W, In uffice, being hould t only every atenus ree in

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Freemen, are all Peers one to another, and may pass upon each other in Juries, both in civil and criminal causes: and this clause (1) No Freeman shall be imprisoned, oc. but (1) Dier 99. by the lawfull judgement of his Peers; extends only to vil. Cook a Inflired lains and those who are not Freeholders from being Indges Charra, c. 14. of Freemen and Freeholders in trials by Jury, (whence the 29. See cook a Writs to the Sherifs to fummon Jurors, require them al-Inflit, p. 27, wayes to return Liberos & Legales homines) not to exclude 29, 49,50, 51. Lords or Peers (who are Freemen in the highest degree) to be Judges of Commoners who are Freemen. So as the Argument from the true meaning of this Law can be but this, in respect of the persons quality who are to give judgement; Villains, and those who are no Freemen, are not to be Judges of, or impannelled in Juries to condemn Freemen; because they are not their Peers, nor Freemen as well as they: Therefore Lords who are Freemen of the highest degree, may not give judgement against Commoners who are Freemen; Very learned nonsence! We all know that the Lord Chancellor of England, Lord Keeper, Lord Treasurer, Master of the Court of Wards, and some of the Judges of the Kings Courts in Westminster Hall in former times, with the Chief Justiciar, and Justices in Eyre, were antiently, and of late too (as the Earl of Holland and others) Peers of the Realm, not Commoners; and that all the Peers of the Realmare in Commissions of Over and Terminer, and of the Peace; yet did we never hear of any Commoner demurring or pleading thus to any of their Jurisdictions in Chancery, Kings Bench, the Exchequer Chamber, Eyres, Affifes or Seffions; Sir, I am a Commoner, and you are a Peer of the Realm, but no Commoner as I am; befides, you fit here only in the Kings right, doing all in his name, and representing his person, who is not my Peer, Therefore you ought not to judge my but Sovereign. cause, condemn my person, nor give any sentence for or against me, it being contrary to Magna Charta, which enacts, That no freeman should be judged or passed upon, or condemned, but by the lawfull judgement of his Peers. Certainly no person was ever yet so mad or sotrish, to make such a

1. 16 c. c.

Plea before Ignoramus Lilburn; And it Lords, Peers may judge the perions, causes of Commoners in the Chancery, Kings Bench, Exchequer, Court of Wards, Eyres, and at Asis. fes, Sessions, without any violation of this clause in May. * 48 E. 3. 30 Br. Exempt. 3, na Charta; (though they are exempted to be impannelled Firz. N. Brev. or ferve in Juries, in cases of Commoners, as Commoners in Juries to try them) much more may the House of Peers in Parliament doe it; who are certainly Peers to Commoners, as Freemen, though Commoners be not Peers to them, as Lords, within the meaning of Magna Charta,

Fourthly, If the Lords in Parliament cannot meddle

(2) See his Innocency &

with, or give judgement in Commoners causes, without breach of this clause in Magna Charta, then why did (2) Lithurn himself sue and petition to the Lords as the only Truth jufili. competent Judges to rever fe his fentence in Star-Chamber, and give him damages, because it was against this very Chapter of Magna Charta? If Lords cannot give judgement in the case of Commoners, as now he holds, without express violation of this Law; then himself in petitioning the Lords to relieve him against the Star-Chamber sentence, besause contrary to this very Law and Chapter of Magna Charta, was as great a violator of it, as his Star-Chamber cenfurers, and his sentence in Star-chamber remains still unreversed, because the Lords examining, reversing of it, (they being no Commoners as he is, but Peers,) was Coram non judice, and meerly void, by the Statute of 25 E. 3. Stat. 5. c. 4. because contrary to Magna Charta it self, as he now expounds it. Let him therefore unriddle, affoyl this his own Dilemma, or for ever hold his rongue and peb, from publishing such absurdities to seduce poor people, as he hath done; to exasperate them to clamour against the Lords, for being more favourable in their cenfure of him, than his transcendent Libels and contempts against them deferved.

Fifthly, This Starte is in the disjunctive, by the Law. full Judgement of his Peers; OR BY THE LAW OF THE LAND, which this Ignorumus observes not. Now

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by the T Law of the Land, every inferiour Court of Justice + See Brook may fine and imprison men for contempts, or misdemeanors and Ashe, against them and their authority: therefore the Lords in & Fine for Pacifiament being the highest Tribunal, may much more contempts. do it, and have ever done ir, even by this express clause of Magna Charta, and the Law and Custom of Parliament, as well as they may give (3) judgements in writs of Error a- (3) Cook 4. gainft or for Commons, without the Commons confent, as him Inflit, p. 21. felf doth grant: yea, and by the Kings concurrent affent, declare what is Treafon, and what not, within the Statute of 25 E. 3. c. 20. in the cases of Commoners as well as Lords, without the Commons; as they did in the forecited cales of William de Weston and Lord of Gomines, 1 R. 2. n. 38, 39, 40. Of William Thorp, 25 E. 3. n. 10. Of Thomas Haxey, 20 R. 2. D. 15, 16. 23. Of Sir Thomas Talbot, 13 R. 2. B. 20, 21. Of Sir Robert Plefington, and Henry Bowhert, 22 R. 2. Plac. Corona in Parliamento, n. 27, 28. Ot John Hall, 1 H. 4. Plac. Corone in Parl. D. 11. to 17. Of Sir Ralph Lumley and others, 4 H. 4. n. 15.19, 20,21. Of Sir John Olderfile, S. H. S. n. 11. and of Sir John Mortymer, 2 H. 6. p. 18. as the Commons and Judges in all thole Parliaments agreed without contradiction, against the erronious opinion of Sir Edward Cooke to the contrary inhis 3. Institutes, p. 22.

Sixolly, It is granted by Lilburn, that by this express Law, No Freeman of England ought to be judged or censured but only by his Peers, and that Commoners are no Peers to Nobles, nor Noblemen Peers to Commoners; Then by what Law or reason dared he to publish to the world, (a) That the House of Commons are the Supreme Power within this (d) And my Realm, and THAT BY RIGHT THEY ARE THE Lords, I tell LORDS JUDGES? certainly this is a Note beyond Ela; you to your a direct contradiction to Magna Charta in this very BY RIGHT clause wherein he placeth his strength, and subverts his THE very ground-work against the Lords Jurisdiction in their House OF

ARE your JUDGES IN THIS CASE, as well as mine. An Anatomy of the Lords Tyranny and Injustice, p. 14.

centure of him. For if the House of Commons be by right the Lords Indges, then by Magna Charta, c. 29. they are and ought to be their Peers; and if the Commons be the Lords Peers, then the Lords must be the Commons Peers too; and if io, then they may lawfully be his Judges even by Magna Charta, because here he grants them to be no other than his Peers; Lo the head of this great Goliah of the Philistin Levellers, cut off with his own sword; and Magna Charta for ever vindicated from his ignorant and fortish contradictory Glosses on it. Now to convict him of his Errour, in affirming the House of Commons to be by right the Lords Judges, I might inform him (as I have tormerly proved at large) that Magna Charta it felt, c. 14. & 29. and Sir Edward Cook (his chief Author) in his commentary on them, are express against him; that in the Parliament of 15 E. 3. ch. 2. in print, it was enacted: That whereas before this time the Peers of the Land have been arrested and imprisoned, and their Temporalises, Lands and Tenements, Goods and Chartels seised into the Kings hands, and some put to death, without Juogement of their Pers; that no Peet of the Land, Officer or other, by reason of his office, nor of things touching his office, nor by other cause shall be brought in judgement, to lose his Temporalties, Lands, Tenements. Goods, Chattels, nor to be arrested or imprisoned, outlawed, exiled, nor forejudged, nor tut to answer, noz to be judged, but by award of the fato Pers in Parliament; which privilege of theirs was both enjoyed and claimed in Parliament, 4 E. 3.m. 14, 15 E. 3. n. 6, 8, 44, 49, 51. 17 E. 3. n. 22. 18 E. 3. n. 7. to 16. 10 R. 2. n. 7, 8. 11 K. 2. W. 7, Oc. and fundry other Parliament Rolls. See Cook 4. Inflit. p. 15. 17 E. 3. 19. Cromptons Jurisdiction of Courts, f. 4. 12, 13. Stamford, f. 151, 152. This Paradox therefore of his, is against all Statutes, Law-Books, Presidents whatsoever, and Magna Charta it self. as falle an affertion, as that the Subjects are the Judges of their Soveraign, the Servants of their Masters, the children of their Parents, the Wives of their Husbands, the Soldiers of their General; and the feet and lower members of the Head.

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The second & only Objection more of moment, is this; Objection 2. If the House of Peers may without the Commons fine and imprison Commoners; then if their fine and impriforment be unjust and illegal, they shall be remediless, there being no superiour Court to appeal unto; which will be an intollerable flavery and grievance, not to be in-

dured among free-born people.

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I answer first, That no injustice shall or ought to be prefumed in the highest Court of Justice, till it be apparently manifested. Secondly, If any such centure be given, the party (as in Chancery) upon just grounds shewed, may Petition the House of Peers for a review and new hearing of the cause, which they in justice neither will nor can deby; and if they do, then the party grieved may petition the house of Commons to intercede in his behalf to the Peers for a rehearing; but for them to discharge, free any Commoner judicially censured by the Lords, I have hitherto met with no prefident in former Parliaments, nor power in the house of Commons to doe it, who cannot reverle Erronious judgements in any inferiour Courts by writ of Error, but the Lords alone, much leis then the judgements of the Higher House of Peers, which is paramount them. Thirdly, I conceive the House of Peers, being the Superior Authority, and only Judicatory in Parliament, may relieve or release any Commoners unjustly imprisoned or censured by the Commons house, or any of their Committees, and ought in justice to doe it; or else there will be the same mischief or a greater, in admitting the house of Commons to be Judges of Commoners, if there be no appeal from them to the Lords, in cale their sentences be illegal or unjust. Thirdly, This mischief is but rare, and you may object the fame against a sentence given, or Law made in Parliament, by the King and both Houses, + be. + 28 E.3. n.8.

to 16. 21 E. 3. can lethere is no appeal from it, but only to the next or some o- 46. b. 7 H. 6. ther Parliament that shall be summoned, by petition in the 29 2. cook 4.

E.3.n. 14. Brook, Cromptons Jurisdiction of Parl, and all Statutes for repealing former Parliaments, Acts, Judgements, or Attainders,

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nature of a Writ of Error. There is a greater grievance in all ill publique Acts which concern many, than in ill judgements which concern but one or two particular perfons; which yet cannot be repealed but by another Parliament; as the Errours and decrees of one General Council cannot be rectified or reverfed, but by and vill another General Council meets to do it. The fame mischief was and is in Errours, Judgements, and Decrees given in the Kings Bench, Chancery, & in illegal commitments by them; for which there is no relief out of Parliament, but to wait

till a new Parliament be called .:

For this I shall eite one memorable Record (besides the forecited cases of the two Spencers, Roger Mortimer, Matravers, Earls of Arundal, Salisbury, and others) relating to the Parliaments of Ireland. Clauf. 46 E. 3. m. 29. Pro Hominibus de Hybernia de Custuma oueribus revocandis, Roberto de Albton Instic. Hybernia. A complaint was made from some of Ireland to the King, that Willielmus de Windfore being Lientenant of Ineland, at the first Parliament held there after his coming, defined diversa Enfinme et onera que antes aliquo tempore concessa non fuerunt, viz. de queliber lasto balicium, 3 s. with divers impositions more on most commodities there expressed. Prahai, Adagnaces, se alis ligoi nostri PRO MAJORI PARTE in dicto Parliamento nostro existentes, concessionem, levationem et salutionem Custuma et onerum supradictorum ABSQUE ASSENSU MINORIS PARTIS DICTI PARLIAMENTI CONCESSERUNT per tres annos tantum, et non ultra concesserunt, prefatus tamen Willielmus et alii de Confilio (norm rotulo Cancellaria nostra ejus dem terra irrotulari et registrari fecerunt, quod dicta Custuma et onera per OMMES in dicto Parliamento præsentes perpetuis temporibus percipiends, concella fuerunt; in ipforum nostrorum ligeorum terra nostra pradict: destructionem et depauperationem manifeltam. Unde Nobis supplicarunt, &c. Et ideo Vobis mandamus, quad premisa omnia et singula ejus dem, modo et forma quibus gesta et alta fuerunt IN PROXIMO PAR LIAMENTO NOSTRO in se

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in terra predicta tenendo coram l'alatis, Magnatibus es Communitate ditti Parliamenti recitari ac declarari facias. Etfi per expositionem et examinationem Vobis constare poterit premilla vetitatem continere, tunc irrotulacionem ac recordune concessionis custuma et onerum praditt: DE ASSENSU DICTI PARLIAMENTI cancellari, et damnari, et levationem et exactionem Cuftuma pradict: ratione concessionis amedicta post dictum triennium supersederi facias omnino. Teste, &c. 28 Maii. It appears likewile by Claus. 47 E. 3. m. 3. De quodam subsidio in Hybernia levando, that they likewise complained by Petition to the King that the faid William de Windfor whiles he was Lieutenant of Ireland, had imposed on them a subsidy of 50001, in the two last Parliaments there held at Kilkenny and Balydoill, against their wills and their free grants; whereupon the King had fent a Writ, that it should not be levied: pro eo tamen, that we are since informed by the GREAT MEN, and other credible persons of Ireland, that the 5000 l. was FREELY GIVEN AND GRANTED by the Lords, Greatmen, and Commons in these Parliaments, ET NON PER VIAM IMPOSITIONIS EXACT: as was fuggested. Volumus de avisamento Concilii nostri, quod omnes denarios de dicta fumma 5000. librarum qui a retro existunce & nondum levari de hominibus et ligeis nostris terra nostra pradicta, junta formam concessionis corundem leventur, &c. Tefte apud Westmonasterium 20 Decembris.

Finally, He that suffers by and under an upjust censure, will have the comfort of a good Conscience to support him rill he be relieved; and therefore he (1) must possess(1) Luk. 21,19 him till ne De relieved; and therefore the (1) minh Patience, and rejoyce under his cross, and not I Pet.3.14rail, murmur, and play the Bedlam, as Lilburn, his Companions, Overson, Larnar, and other Settaries doe, against our (2) Saviours own precept and example, and then (2) 1Pet 2.15.
God in his due season will (3) relieve and right them in a legal to 21. c.4. 16. way; whereas their impatience, raving, and libellous rai Ifay 53.7 ling Pamphlets and Petitions (not favouring of a Christi. (3) Pfal. 3, an, meek and humble spirit) will but create them new & 37. & 46.

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fuffrings against Law and Reason.
Having answered these Objections, I shall now ear-

neftly defire all Lilburns and Oversons feduced Disciples, whether Members or others, feriously to weigh and confider the premites, that so they may fee how grollely they have been deluded, abuled; and milled by thele two deprive them Ignes fatui, or New-lights of the Law, and Gercumscribers * Which to of the Lords and Parliaments Jurisdictions, which (God highest inju- knows) they no more know nor understand than Balams act of the Affe; as the premifes demonstrate; and I shall seriously flice and unadjure them (if they have any grace, fhame, or remainder sighteoufness excluding the of ingenuity left in them) ingeniously to recant, and Actors there-publiquely to retract all their feditious railing Libels and of both from Scurrilous Investives against the Lords undoubted Privi-the reality of leges, Jurisd Etion, and Judicature, which I have here unanswerably made good by undeniable Tellimonies, Hi-Christians & felf Mich. 2. 1, flories, Records, and the grounds of policy and right reason 2,3, &c. Cor. (which they are unable to gainfay) to undeceive the 6.8, 9. Rom. many ignorant over-credulous poor Souls they have cor-13. 1. to 10. rupted and milled to the publique diffurbince of our † Prov. 8. 15, Kingdoms Peace; and let all their followers confider well 16. Dan. 2. . of our Saviours caution, Mat. 15. 14. If the blind lead 21,37. Rom. the blind (25 the fe blind-guids doe them) bosh of them shall Col. 1.16,17, fall into the Ditch, and there perish together: O consider 18. Eph. 1,21, therefore what I have here written to undeceive your Acts 13, 20, judgements, and reform your practice; confider that 21, 22. Tir. 3. Dominion, Principality, Regality, Magistracy and Nobi-I. I. Tim. 2. I lity are founded in the very Law of Nature, and & Gods 2, 3. 1 Pet. 2. own institution, who subjected not only all beasts and li-17. 6. 16. c. ving Creatures to the foveraign Lordhip of man, to whom he 35. 1 1. c. 36. gave Dominion over them , Gen. 1. 28, 29. c. 9. 2, 3, 5 P(al. 8.6, 7, 8. by vertue whereof men still enjoy Domi-15. to 43. Deut. 17, 14, nion over the Beafts; but like wife one man unto another ; as (1) Children to their Parents , Wives to their Hus-8. to 17. I. Chron. 28.1. 5. 2 Chron. 1. 9. to.c. 3. 11. c. 9.8. (i) Gen. 3.16, Exod. 20, 12. Eph. 5.23, to 30, c. 6, 1. to 10. Rom 13.1,2,3. Tit,3,1. Col.3,20,22, 1 Per, 2,13,14,18,c.3, 15, Heb.13. 17. Joh, 1, 16, 17, 18, Mat, 8.9. bands;

bands, Servanes to their Masters, Subjects to their Kings, Princes, Magistrates, Souldiers to their Captains, Mariners to their Ship-Mafters , Schollars to their Tutors , People to their Ministers; which order, if denied or disturbed, will bring absolute and speedy confusion in all Families, Corporations, States, Kingdoms, Armies, Garrilons, Schools, Churches, and distolve all humane Societies, which subsist by order and subordination only to one another; and feeing God himfelf and Jefus Christ are frequently stiled in Scripture, not only King, Lord, the Head of all Principalities, Powers, Thrones, Dominions, but also KING OF KINGS, and LORD OF LORDS, Dent. 10. 17. Pf. 136. 2. 1 Tim. 6. 15. Rev. 1.5.c. 17. 14. c. 10. 6. which glorious Titles they must lose if all Kings and Lords be totally abolished:) And since Monarchy, Royalty, Principality, Nobility; yea Titles of Honour and Nobility, (as * Kings, Princes, Dukes, Lords, &c.) are of Divine in-Micution: Col. 1. 16. Rom. 13.1, 2. Eph.3. 10.yea as an + Specially tient almost, as the world it felf, universally received, promised by approved among all Nations what foever under heaven, and God as a blef-honoured with special privileges, as not only all he are fing to his honoured with special privileges, as not only all k) emi- people, Gen. nent Authors and experience manifelt, but thele enluing 17.6,16.c.35. Scripture Texts , Gen. 12. 15. c. 14. 1. to 10. c. 17. 6, 11.ler.17. 14, 16.c, 20. 2. c. 21, 22, 23. c. 25. 16. c. 26. 1. 8. 26. 26. c. 25. C. 2.4. I 36. 15, 16, 17, 18, 29, 30, 31, 10 43. 6, 9. 1, 2. 6. 41. 40, 5, 6. 6. 11,12. 10 47. c. 47. 22, 26. Exod. I. 8. Numb. 20. 14, &c. c. 21. (k) See Sel-1, 18, 21, 33.c. 22.7. 10. 14, 15, 40. c. 23. 17. c. 2, 3, dens Titles of 10. c. 16. 2.c. 27. 2.6. 32. 2. Deut. 17. 14. 15, 16. Jojh. Honour, Dr. 1. 16, 17, 18.c. 5. 1. c. 5. 1. c. 8, 9, 10, 11, 12. Judg. 9. and others of 6, 18. 1 Sam. 8. 5, 9. 2 Sam. 11. 2. 1Kin. 4. 34. c. 10.15, Nobility. Ca. 23, 29. 6. 20. 19.6. 23. 22. lob 3. 14.6. 36. 7. Plal. 2. tanzus Cato-2. 10. Plal. 62. 12. 14. 29. Pf. 72.10, 11. Pf. 102. 15. Pf. logus gloriz 136. 17, 18. Pf. 138. 4. Prov. 8. 15, 16. Prov. 30, 31. mundi, Eccl. 10.16,17. Judg.3.5.c. 16. 8.1 Sam.5.11.6.29.2.6,7. Jer. 25.18.20 27. Dan. 4.36. c. 5.9,10, 13.6.6.27. Mat. 8.9. Mar. 6. 21. c. 10, 42. 1 Cor. 8. 5. Rom. 13. 1, 2, 3, 4. 1 Tim. 2. 1. 2 Tit. 3. 1, 2. 1 Pet. 2. 13, 14, 15. Acts 9.27. (which I wish our Sectaries, Levellers, and Lilburnists to con-

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confider and findy, with the others forecited; it will be a meer folly and madnesse in any man to prove Antipodes to this institution of God, Nature, Nations: to run quite contrary to all men, and to level the head, neck, shoulders to the feet; the tallest Cedars to the lowest Shrubs; the roof of every building to the foundation stones, the Sun, Moon, Stars, Heavens, to the very Earth, center, and even men chemielves to the meanest beasts. I shall therefore conclude with Saint Pauls ferious admonition, which thefe refractory persons have quite forgotten, Rom, 13. 1, 2. 3. Let every foul be subjett to the higher Powers; for there is no power but of God, the powers that be are ordained of God; who soever cherefore resisteth (much more oppugneth, abolisheth) the Power, resisteth (oppogneth, abolisheth) THE ORDINANCE OF GOD. and they that refift (oppugne or endeavour to abolish these powers) hall receive to themselves DAMNATION; for Rulers are not aterrour to good works, but to the evil; wherefore YE MUST NEEDS BE SUBJECT, NOT ONLY FOR WRATH, but likewife FOR CONSCIENCE SAKE. And for this cause pay you tribute also, for they are Gods Ministers, attending continually on this very thing. Render therefore to all (fuch just higher Powers) their dues, tribute to whom tribute, custom to whom custom, fear to whom fear, HONOUR to whom HONOUR IS DUE, which Saint Peter likewise seconds almost in the self same words, which you may doe well to perufe and fludy, t Par. 2. 12. 10 20.) and then you will never dare to queflion or dispute any more the Power, Judicatory, Privileges of the Right Houserable House of Peers, much lesse to Revile and Libel against their lawfull power, persons, Indicature as now you doe, to the infinite Scandal of your Schifmatical faction, and Religion it felf, which you profelle only in thew, but deny in dieds and practice.

I shall close up this Plea with these ensuing Presidents of Power given by Ast of Partiament to the Lords of the Kings Conneil, to answer those Passions, and redress those grievances, which were not answered nor redress.

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fed fitting the Parliamene, after the Parliaments themselves were ended; and that at the Commons special re-

queits. Parl, 15 H.6. w.33. Icem levanedic 27 iour de Marez un De potestate auere petition fuift bailles a nostre Seignior le Roy en mesme concessa Dole Pavlement par les Comunes dicel, le tenour de quell petition ey minis de Conensuit. Please an Rot no fire Souerayn Seignior confiderer, co. filio Regis ad met plusours petitions ount estez baillez et exhibitez a vestre terminand. presnable bange ffe par les Comunes de cest prefent Parliament Periciones in pur ent avoir covenable remedies et unquore ment determinez, Parliamento d'ardenier, per admis des Seigniors Esperienelx et temporelx & minime deteraffent des Comunes avantaitz, que les ditz petitions purront co minat, Are deliveres a les Seigniors de vestre tressage Counseill; lez queux appellex a eux les fustices et autres gentz aprisez en vestre les se besaigne y soit, aiant poair par auctornes du dit Parlement, par entre cy at la fost del Nativite de Seint Johan Baptiste prouabein avenir, doier et serminer les dites petitions, et que Ycelles ensi terminez del advis et affent suis ditz, purrunt ostre enastez, envollez et mys de Recorde de mesme vestre Parlement. La quell petition lev en mesme le Parlement et emendiez del advis et affent des Seigniors Efpiritnelx & temporelx en le dis Parlemens adanges esteanez, fuit responduz a icell en manere en [uant.

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Et postea videlicet vicessimo secundo die Junii tunc proxime sequenci, omnes et singulæ Peritiones quæ Do. mino nostro Regi per Comunes Parliamenti pradicti pro congruo remedio inde auctoritate ejuldem Parliamenti habend. libertatæ et exhibitæ minimeg; ante distolutionemParliamenti prædicti determinatæ, fuerunt certisDomais de Confilio Regis subscriptis, videlicet carissimo Avunculo Regis, Humfrido Duci Gloucestria, ac venerabilibus patribus Johanni Archiepiscopo Ebor. Johanni Bathon et Wellen, Cancellario Anglia, & Willielmo Lincoln Epilcopo, necnon et Radulpho Cromwell Militi Thelaur. Angl. Waltero Hungerford Militi. et Magistro Willielmo Lyndwode Custodi privati figilli, Dom. Dom. Regis apud Westw. in Camera stellata prætextu auctoritatis prædica

exhibitæ fuerunt et libertatæ, qui quidem Domini appellatis sibi prius Justiciariis ac aliis peritis in lege, tam communes quam spirituales Peritiones subscript, de petitionibus antedictis coram eos legi secerunt, easque auctoritate præd, in sorma qua in indortamento earundem Petitionum continetur determinaverunt: quarum quidem petitionum tenores una cum responsionibus earundem inserius hie sequuntur.

† Exact Abridgement, P. 564, 584, 591.596. The like was enacted and done in the † Parliaments of 1 H. 6. n. 21.4 H. 6. n. 21.8 H. 6. n. 45.8 H. 6. n. 69. Since then the Lords at the Commons requeft, were thus au horized to be Judges, Auswerers, Reformers of their Petitions and Grievances in Parliament, which could not be there answered, redretsed during the Parliaments sitting, even after those Parliaments determined; much more must they be the only proper Judges, Answerers and Redressers of them in our Parliaments, whiles they continued sitting; and those who are proper Judges of their Petitions and Estates in Parliament, must by the self-same reason be admitted to be the proper sudges of their persons likewise in all cases proper for Parliamentary Conusance, maugre all pretences to the contrary.

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The Principal Scope of the Precedent Pleafor the Lords and Honse of Peers, being only to justific and ratifie their ancient just Right to fit and vote in all English Parliaments, and Great Councils of State, and their Indicial Authority in them, without the Commons, especially in Criminal Causes, then only controverted, contradicted by Lilbourne, Overton, & their Difciples; I reputed it both useful, and necessary to superadde thereto some memorable Presidents in former ages (which no Vulgar writers of our English Parliaments have remembred) of the Kings and Lords Proceedings, Audicature in Parliament in Civil and Ecclefiaftical Caules, of publick and private concernment, as no way beteregeneal, but homogeneal to my Theam, to make this Plea more compleat, and communicate some more knowledge of Parliamentary Affairs and Proceedings, both to the Ignorant and Learned in this declining age, wherein learning and learned men of publick spirits in all Professions, are so much decayed, and little Pisible Probability left of any speedy reparations of this inestimable losse, for want of publick encouragement; I shall proceed herein, only in a Chronological Method, as I have done for the most part in the premises, beginning with the ancientest president I meet with of this kind, and so descending to succeeding ages.

About the year of Christ, 536 Our (4) famous Brittish victorious King Arthur, by his Letters and Meffengers fummoned all the Kings, Prelates, Dukes and Nobles subject to him, to meet at the City of Caerleon on the to 14. Mut. teast of Pentecost, then to be new crowned, and fettle the peace and affairs of his Realmes; whereupon there affembled at that time and place thirteen Kings, three Archbishops, and many Princes, Dukes, Consuls, Earls and LORDS (whole names are registred in Geoffry Monmonth)

(a) Galfridus Monumetenfis, Hift. Regum. Brit. 1. 10. 6.1. Westm. Flores Hift. An. 539. Speeds Hift, p.

mouth) whiles they were thus convened, there arrived twelve men, with letters from Lucim Tiberim, procurator of the Roman Republick, demanding in high language, The Tribute of Brittain, which the Senate command King Arthur to pay, with the arrears injuriously detained, because Julius Casar bad reserved it (upon bis conquest of Brittain, and bee with other Romane Emperours had long received it: Summening him likewise to appear at Rome in Angust the year following, to satuste the Senate. for the injuries done them, and submit to the sentence their Inflice hould pronounce; or elfe denouncing war against. him. This Letter being publickly read before all the Kings, Princes; Dukes and Nobles prefent; the King consulted with them, craving their manimous advise and Sense concerning this business, affirming, That this Tribute was exacted, ex irrationabili causa) against all reason; for be demanded it to be payd as due, because it was paid to Julius Cafar, and bis successors, who invited by the devifions of the old Brittains arrived with an Army in Brittain; and By force and bielence fubletted the Country to their power, shaken with domestick commotions. Now because they obtained it in this manner, vettigal ex coinjuste receperant; therefore they unjustly receibed tribute out of it. Nibil enim quod vi & violentia acquiritur, justo ab alle possidetur, qui violentiam intulit : irrationabilem ergo canfam pratendit, quanes jure fibi tribitarios arbitratur. For nothing which is acquired by force and biolence, is justip possessed by any man who hath offered the biolence. Therefore hee pretends An irrationable cause whereby bee reputes us to be Tributaries to bim, Sc. The whole Council upon debate fully affented to this opinion, and promised the King their assistance against the Romans in this canfe. Whereupon King Arthur returned this anfwer, That be would by no means render them tribute, neither would be submit himself to their judgement concerning it, nor repare to Rome, &c. An expresse resolution. That Conquest by warr-force, and violence, is no good, just,

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just, nor lawful, but an unlawful and unjust Titleto any Tributes or Possessions, which these who now pretend they are Conquerors, and us a meer conquered Nation, and therefore they may impose what Taxes. Excises, Tributes, Laws, Executions they please upon us (when as they were only rayled, waged commissioned, to defend, preferve our Laws, Liberties, King, Parliament, and Kingdomes, not to conquer or enflave them) may do well to confider.

In the year of our Lord, 799. (b) King Kenulfm, upon (b) Evidenthe petition and complaint of Athelardus Arch-Bifhop tiz Ecclof. of Canterbury, consentientibus, EPISCOPIS ET Canter. Col PRINCIPIBUS MEIS, affembled in a Parliamentary 1212. Council restored four parcels of Lands to Christ-Church in Canterbury, which King Offa heretofore had taken

from this Church, and conferred on his Officers.

(c) Kenulfus King of Mercia, calling a Provincial (c) Evidentiz Council held at Clovesho, Anno Dom. 800. wherein all the Bishops, Dukes, Abboss, and Nobles of every order 2217, Spetwere affembled, complaint was made therein, that minni Concil. after the death of Arch-Bishop Cuthbert, Verhob and P. 318, 319. Osbert, led by a malignant spirit, stole away the evidences and writings of the Monastery of Cotham, and all the Lands thereunto belonging, given by King Atheibaldto our Saviours Church in Camerbury, and brought them to Kenulfus King of the West-Saxons, who thereupon converted the faid Monastery and Lands to his own use. After which Bregwin and Jambers Arch-Bishops of Canterbury, complained of this injurie done to the Church in fundry Councils, both to King Kenulfus, and Offa King of Mercin, who took from Kennifes the Monastery of Cotham, with many other Lands, and Towns, and subjected them to the Realme of Mercia. At last Kennifus induced by late repentance, restored the evidences and Writings of the faid Monastery, together with a great summe of mony to the laid Church, to prevent the danger of an excommunication; but King Offen, as hee received the

faid Monastery without writings, so hee retained them during his life, and left them to descend to his heirs without any evidence after his death; whereupon Athelardw the Arch-Bishop, and other wife men of Christ-Church, brought these Evidences and Writing touching Cotham into this Conneil of Clovelhor where when they had been publickly read; OMNIUM VOCE DECRETUM EST, that it was just the Mctropoliticall Church should bee restored to the faid Monastery, of which shee had been unjustly spoiled for so long a time. Athelardm receiving also in this (d) And Pon- Council the dignities and possessions which King Offa tif. Cani. Col. had taken from Jambert; annuente ipfo Rege; 25 (d) Gerva-

1642.

(r) Mat. Westminster Anno 797. Wil. Malmel buri de Geftis Pontif. I. I. C. 4. Spelmanni. Concil. p. 330 to 3 26. Antiqu. Eccles. Brit. p. 27. to 30.

(f) Evidentiz Eccles, Christi Cantuar. Col. 1263, 2214. Spelmanni Conc. p. 331, 3333 334.

fin records. In (e) a Council held at Clovesho, Anno 813. Upon complaint of the Arch-Bishop of Canterbury, the Arch-Bishoprick of Liteb field was dissolved, and the Bishopricks annexed to it by King Offa taken from the See of Canterbury, restored and reunited thereunto, by the confent of King Kenulfus, his Bishops, Dukes, and Nobles, (who writa Letter to Pope Lee for that purpole) unanimo confilio totina fantte Synodi. And in this Council allo, other lands were restored to the Bishop of worcester, and other controversies between Bishops concerning their Lands and Limits decided.

In another Council at Clovefto, Anno 821. Wherein King Kenulfus, Wulfred, Arch-Bishop of Canterbury, with the rest of the Bishops, Abbots, LORDS, and GREAT MEN, as well Ecclefialtical as (ecular were present; inquiry was made, whether any were unjustly Spoiled and deprived of their rights ? Whereupon it was shewed, that Arch-Bishop Walfred was unjustly deprived of his just Lordship and Jurisdiction near fix years space, and forced under pain of confiscation of his goods and banishment, to convey three hundred Hydes of Land to him, upon condition that he should bee restored to his full Archiepiscopal authority; which condition was not performed. After the Kings death, Abbeffe

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Abbelle Kenedezeha, his daughter and heir, was fummoned to this Council, where the Arch-Bishop complained of the injuries done to himlelf, and Christ-Church in Canterbury by her Father, requiring reparations for them from the Abbesse, if it were just. Whereupon ALL THE COUNCIL held is just, and DE-CREED BY AN UNANIMOUS DECREE. that all the Lands and things taken away from the Arch-Bishop by ber Father, should beerestored, together with the profits thereof lest for so long a space, as also all the Books and Writings, by the Abbesse being heir to the King, which was accordingly performed by her.

(g) King Bereulfus, Anno 850. Holding a Great (g) Ingulphi Council, with the Prelates and Nobles of the whole 859, to 863. Realme of Mercia, upon the complaint of Siward, and Spelman. Conthe Monks of Croyland, of certain injuries maliciously cil.p. 344, &co. done unto them by their adversaries, in violating the Bounds and Priviledges of their Sanctuary, to the great prejudice of their Abby: Thereupon the Kings Prelates and Nobles in this Council for redress of this injury, prescribed a Perambulation of their Bounds to be made by the Sheriffe of the County, and to certifie the same unto them when made; which was accordingly made, certified to, and confirmed by THE KING, PRELATES and NOBLES in the Coun- (h) Ingulphi cil, held by them at Kingsbury, in the year, \$51. (as Hift p 889. you may read at large in Ingulphu) upon the petition Giftis regum I. of Abbot Siward.

After the death of (b) King Edgar, Anno 975, there Westm. Wiheing a great difference between the Nobles of the Realme gorniensis about electing a new King; some of them siding with Hunrondin, Ethelred, others with Edward, his two Sons, all the Houseden, Fox-Bishops, Abbots, and NOBLES affembled in a great ments, Vol. 1. Parliamentary Council to debate and determine their p. 201, 304, rights and titles to the Crown, Wherein they elected and sos. The third crowned Edward the elder Brother King. In this part of my fear Council, and two or three more succeeding it at Win- gal Kindigation chefter and Calne; the married Priests complained TO on, p. 131, to.

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THE LORDS, that they were unjustly expelled out of their Churches by the Monks, and their prevailing party during King Edgars Reign, to their disconner, and the great injury of the Nation, desiring that the Monks might bee ejected, and they restored to their Churches they anciently injuyed: about which there were great contests and disputes in lundry Councils, the King and LORDS inclining to restore them, against Arch-Bishop Dunst ans, and other Monkish Prelates wills.

Titles of Honeur, parr. 2. c. 5 p. 693. About the year 982. There was a (i) Witenagemi, or Parliamentary Council held at London, to which the DUKES, PRINCES and NOBLES reforting from all parts; Adelwold Bishop of Winchester complained, that one Leoss, who had purchased Lands of him in the lise of Ely, not only refused to pay for them, but also disseised him of three other Mannors. The cause being opened and pleaded by the Bishop, and the Lawyers flocking thither from all parts: They ALL AD JUDGED, that the Lands and Mannors should be restored to the Bishop, together with all his dammages, and that Leossi for this his vapine should also pay a fine and ransome to the King.

(k) Cottoni Peshuma, p. 346.

(k) Queen Edgen in a civil cause and suit in the County Court between her and Goda, appealed from that Court to King Ethelred, and a Parliamentary Council at London, Congregatio Principibus & Sapientibus Anglia. In the time of St. Edward, a fuit between the Bishops of Winchester and Durham, cogam Pzincipibus et Cpifcopis Regnt in prafentia Regis, ventilata of finita eft. In the tenth year of King William the Conquerour, Episcopi, Comites et Barones Megnt regia peteftate ediverfis Provincia ad universalem Synodum pro cauffs audiendis et tractandis convocati funt, (1) as the Leger Book of Westminster records. Hence I Suppose it was, that what we now call a Parliament, was sometimes stiled by our ancient Historians in former ages MAGNUM PLACITUM because of the great Pleas and fuits therein decided, and judged BY THE (m) King KING and LORDS.

(1) Florentius Wigornienfis, p :82. Houeden, p 4:3. Mat, Weft. out of

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(m) King William the first, Anno 1071. held a great Council of his PRELATES and NOBLES at Winchefter. In hoc Concilio dum cateri tropidi, atpoto Regis aquoscentes animum, ne suis honoribus privarentur venerandus Vir Wulftanus, Wigorniensis Episcopus, quamplures possessiones sui Episcopatus ab Aldredo Archiepiscopo dum à Wigorniensi Ecclesia ad Eboracensem transferretur suaporemia retentas qui eo tune defundo in Regiam potestatem devenerant, constanter proclamatat, 7US-TITIAMQUE INDE FIERI, tam AB IPSIS 201, 107. Mat, QUI CONCILIO PREERANT, quam a Rege Paris Anno FLAGITABAT. At quia Eboracensis Ecclesia nos babens Paftorem qui pro ea lequeretur, muta erat, JEL-DICATUM EST, ut ipsa querela sic remaneret quousque Archiepi (copo ibi constituto qui Ecclesiam defenderes) dum effet qui eine querela responderet, & objettes & refonfis poffer ebidenitus et Juftus Judicium fieri, ficque tune a querela ad tempus remanfit. But Thomas being foun after confectated Arch-Bifton of Tork, thereupon reverendi Wulftani Wigornientis Episcopi mota estiterum querela, Archiepiscopo jam consecrato Thoma, qui pro Eboracenfi loqueretur Ecclefia; & in Concilio in loco qui vocatur Pedreda, celebrato cozam Rege ac Dorobernia Archiepiscopo Lanfranco, & Episcopis, Abbatibus, Comitibus & Primatibus tottus Megni, Dei gratia adminieulante Terminatum. Cunctis siquidem machinationibus, non veritate stipatis, quibus Thomas, ejnsq; fautores Wigorniensem Ecclesiam deprimere, & Eboracensi Ecclesia subjecte aniliamque facere modis omnibus satagebant, justo Dei judicio in scriptis evidentissim is detritie & peniim annihillatis, non solum vir Dei Wulftanus proclamatat & expetitat possessiones accepit, sed & suam Ecclesiam (Des clamante & Rege concedente) ea libertate liberam suscepit, qua primi fundatores ejus, sanctus Rex Ethelredus, Offa, etc. ipfam liberaverunt. By which History it is apparent, that the King and Lords in that age had the sole judicature in civil causes in the Parliaments then held, and decided civil Titles and controverlies .

(m) Florentius Wigornienfis, Anno 1070. p. 434, 475, 436, 437. Radulfus de Dicese. Abbrevi. Chrone col. 481, 483. Sim, Davelmenlis, de gestis Reg. Ang. col. 1078. p. 80. Oudwin in the life of Ulftan.

versies therein between Bishops and spiritual, as well

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In the year-Book of 21 Ed. 3. fol. 60. There is a re. cital, that upon the complaint of the Abbot of St. Ed. monds de Bery against the Bishop of Norwich tor infring. ing the liberties of the Abby, in the Reign of William the Conquerour, in a Barliament held under him; (moft likely in this Council of Pedroda, it was ordained per le Map, et per Larchebelque de Canterbury, et per touts les Auters Chefques, de la terre, Countes et Barons (without mentioning any Commons) that at what time foever hereafter the Bishop or any of his succesfors hould go against the points of the foundationer exemption of the faid Abby, that he who should be Bishop for the time, should pay to the King or his heirs thirty talents of gold. The Bishop of Norwich in 21. E. 3. contrary to the Kings prohibition, not to enter the franchiles, nor intrench upon the Priviledges of the faid Abby against this ancient ordinance, visited in the foresaid Abby, and summoned them to thew the Charters of their foundation, wrongfully, and in despite of our Lord the King. Whereupon the King fued forth a writ of contempt against the Bishop to which the Bishop appearing by his Actorney, pleaded not guilty; whereupon hee was found guilty by inquest: upon which it was awarded, that his temporalties should bee seised into the hands of the King, by force whereof his temporalties were feiled, and a Scire facias issued against the Bishop ro-appear before the Chancellour, to flew cause why hee should not likewise pay the thirty talents to the King, according to this ordinance. To which the Bishop pleaded, that the Bishop at the time of this ordinance made, might charge himself with these Talents, but not his succesfours in perpetuity, neither doth it appear that the Bishop himself was present in Parliament, when this Ordinance was made, and the other Bishops had no power to charge him or his successours without his consent. But because it was done by ordinance made in Parliament, and there of record, it was adjudged it should binde him and his successours, and that hee hould pay the thirty talents of gold to the King, and that the King himfelf shall fet the price of them, bee it

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(n) Odo Bishop of Bayon, Earl of Kent, brother to William the Conqueror, by his great power and favour about the year 1071. Non modo terrat, fed & libertates Eccle fie Cantuariensis, nullo ei resistente multipliciter invaferat, oppresserat, tenebat, before Lanfranc his inveltiture in this Sec. Lanfranc being made Arch-Bishop, and informed of this rapine, complained p. 97. Wil. Malthereof to the King; whereupon King William, Anno 1074. Pracepit Ren, quatenno adunatis PRIMORI-BUS, & probis viris, non folum de comitatu Cantia, fed & de aliss Comitatibus Anglia, querele Lanfranci in medium ducerentur, examinarentur, determinarentur. Disposito itaq: apud Pinnedene Petneipum Conbentu Galfridus Episcopus Constantienlis, (Vir ea tempestate pradives in Anglia) Vice Regu Lantranco institiam de suis querelis strennissime facere jussus, fecit: Lantrancus enim valida ratione subnixus Et Communt omnium ARipulatione et Judicio, ibi ennita recuperavit, que oftensa sum antiquitue ad jura Ecclesie Christi Cantuarienfis persinniffe, tam in terris, quam in deversis confuetudinibus; he there recovering no less than five and twenty Mannors, besides smaller Farmes and parcels of Lands which Odo and others had feifed upon in fe- (o) Adupon. veral Counties, and reftoring them to the Church, in tif. Cantuer, this Assembly. (a) Gervasius Doroberniensis, writes thus Col. 1655. oi it. In Congregatione illa Famola Pebilium Anglia & Deniozum qua ex pracepto Regis facta eft apad Pinendene, dirationavit Lantrancus & recuperavit terrae ablava, libertates & con net naines revocavit; Et ficus Rex tenes libere consuctudines sibi debitas in terris suis, in Archiepiscopus & Ecelesia Cantuariensis in omnibus leen senent homines snos, consuetudines, terras, jura, & libertates, feeundum eartas Regum. The whole Plea

(n) Eadmerns Hift. Nou. 1. 1. p.g. Seldens Titles of Honour, p. 702. Antiquitates Eccletiz, Brit. meshury de Geftis Pont Angl. I. I. P. 214.

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and Proceedings in this Parliamentary Affembly at Pinendene are recorded in the Leiger- Book of the Church of Rochester, and published by Mr. Selden, ad Eadmerum & Note & Spicilegium, p. 197, 198, 199. It continued three whole daies: The Names of the Bishops, Nobles, and BARONS present at it, are there recorded: and it concludes thus; Hajus placiti multis teflibus multi fque rationibus determinatum finem poffquam Rex audivit, landavit, landans, cum confensu omnium Principum Gozum confirmabit, & ut deinceps incorrugtus perseveraret, firmiter precepit; so that the King and Nobles were the Judges in this great Plea and controversic, and both adjudged and perpetually ratified what was therein adjudged to the Church of Canterbury. both in Lands, Customes, Liberties.

(p) Hift. No. verimus, I. I. P 9, 10.

(p) Eadmerns writes, that at another time, Odo by the Kings permission, placitum instituit contra sapefatam Ecclesiam, & tutorem ejus patrem Lanfrancum, & illuc omnes quos peritiores legum, & uluum Anglici regni guarus adduxit; Cum igitur ad ventilationem canfarum ventum effet, omnes qui tuendis Ecclefie caufes quaq; convenerant in prime congressu ita convicti funt, ut in que cas tuerentur fimul amitterent : Lanfi and being then ablent, and not using to bee present at such Pleas, mis necessitas Summa urgeret, being at his fludy, and informed of this evil successe, was nothing dejected at it, sed ditta adverfariorum non rette processife affernit, & ideo cunta in chrastinum induciari pracepit. Placitum mane insemet hilaris intrat, suas itaque cansas quodam exerdio quasi à rebus qua traffata fueram vel traffanda penitus alieno; cunctis ftupentibus orfus, isa proce'sit, ut qua super eum pridio ditta fuerunt sic devinceret & inania esse monstraret, ut donoc Visa prefents superfuit, unlins exungeret qui inde contra enm os aperiret.

(q) Wil, Malmesburien. fis de Geffis Pontif. I. r. in P. 94, 95.

• In the year (4) 1072. There falling out a difference La franco An at Rome between the two Arch-Bifhops, Lanfranc of tiqu. Eccl. Brit. Canterbury, and Thomas of Tork, about the fubjection which Lanfranc demanded of this Thomas and his

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Church of Tork to the See of Canterbury, and Pope Alexander the xi, quia consuetudinibus, & privilegio ac privatis Episcopatus institutis certius, quam jure scripto definiri poffe videbatur; decretum oft à Papa, ut a Rege et Regni Proceribus Dijudicaretur. Whereupon the King, Bishops, Abbots and Nobles affembling together in Windfor Castle, determined this controversy between them, against the Arch-Bishop of York, and made a final DECREE therein, at the Feast of Pentecost, ratified with the subscriptions of the King, Queen, both the Arch-Bishops, all the Bishops, and fundry Abbots; recorded at large in William of Malmesbury; & Antiquitates Ecclesia Brittannica, where they who please

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This (r) controverly about Primacy, subjection and canonical obedience, being afterwards renewed, and eagerly profecuted between Anselme, Arch-Bishop of Canterbury, and Thurstan of York, was again difcusted and determined in a Parliamentary Council at Angl. Col. 237. Salubury by King Henry the first, the Bishops, Abbots and Nobles of the whole Realme. As I have formely evidenced, p. 165, 166, 167. (1) After this there arifing the like difference and contest between Arch-Bishop Anselme and Gerard of York about his oath of fubjection and obedience to the Arch-Bishop and Church of Canterbury, Anna 1107. it was again resolved in another Parliamentary Assembly held that year by King Henry the first, the Bishops, Abbots, Great men and Nobles of the Realme, as you read before, p. 173. Anno 1109. there forung up another hor contest between Arch-Bishop Anselme, and Thomas Elect of York, about the oath of subjection and canonical obedience which was again debated: and (t) after (t) Endmerus Anselmes death again debated and finally fetled in a- 1.4.p. 101, nother Parliamentary Council, by the King, Bishops, 102, 103. Nobles and Barons of the Realme, of which at large before, p. 174, 175, 176, 177. The (a) fame Debate coming again between Ralph, Arch Bishop of Canter-· Ggg 2 bury,

(r) Eadmerus Hift. Nov.1.3. p. 117. Sim Dunelm. do Geft. Reg.

(f) Eadmerus Hift. Nov. 1. 4.

(u) Endmerns

bury and Thurstan of York, after his returne from Exile Anno 1121. Was again concluded, omnium Concilio Episcoporum, Principum & Procerum Regni, p. 180.

(1) Mat. Paris Hift- Angl. p. 82. Gul. Neubrigensis, I. I. c 30. Houeden. Annal. part.I. p. 490 Mat. Westm. p 42. Chron, Gervafis, Col. 1373, 1374. Sim Dunclmenfis, Hift.Col. 282. Chren. Iohannis Bromton, Col. 1138, 1039. Sec Polychronicon, Fabian, Caxcon Helinshed, Grafion, Speed. Baker in the life of King Stephen. (y) Roger de Honeden Annal. pars pofferior p. \$460547.

After many years intestine bloody wars between the perjured Ulurper King Stephen, Mande, and Duke Henry her Son, for the Crown of England, (n.) Anno 1152. apud Walingford in cenbentu Episcopozum et altegum Regnt Dprimatum, there was a final accord made between Stephen and Henry, touching the inheritance and descent of the Crown, that Stephen should adopt and constitute Henry for his fon, heir, and succesfor to the Crown of England immediately after his death, which Stephen should enjoy during his life, yet so, as that Henry should bee chief Justice and Ruler of the Kingdome under him. This accord made between them by the Prelates, Earles, and Barons of the Realme, was ratified by King Stephens Charter, and subscribed by all the Bishops, Earles and Barons in their Parliamentary Council at Walingford.

(y) The difference and suit between King Henry the ad. and Roderic King of Conatt in Ireland, touching his Kingship, Royalties, Dominions, Services, Homage, Loyalty, and Tribute to King Henry, were heard, decided and a final agreement made between them in a great Parliamentary COUNCIL held at Windeshores, Anno 1175. wherein King Henry the 2d. and bis Son, with the Arch-bishops, Bishops, Carles and Barons of England (without any Commons) i were present, who made and subscribed this agreement, recorded at large

in Honeden where you may perule it.

(z) Houeden. Annal. part. poster. p, 160 (2) King Henry the 2d. Anno 1177. Colebrato generali CONCILIO and Northampion, after the feaft of St. Hilary (by the advice of his Nobles) restored to Robert Earl of Loicoster, all his Lands on this side and beyond the Sea, as hee had them fifteen daies before the Warre, except the Castles of Monnsorel and Pasci. Hee likewise therein restored to Hugh Earle of Chiffer all the lands which hee had fifteen daies before the

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warre, and gave to William de Abbine Son of Williams Earle of Arundel in the County of Southfex, And in the same Council Deane Guido resigned into the hand of Richard Arch-Bishop of Canterbury, the deanery of Walteham, and all his right which hee had in the Church of Walteham, quietum clamavit simpliciter & absolute; similiter fecerunt canonici seculares de Waltcham, de prebendu suis, resignantes eas in mann Archiepiscopie sed Dominus Rex dedit eis inde plenariam recompensationem, ad Domini Cantuariensis Archiepiscopi astimationem. Deinde Dominus Rex authoritate Papa Domini, instituit in eadem Ecclesia de Walteham, canonicos regnlares de diversis domibus Anglie sumptos, & constituit Walterum de Garent, canonicum sumptum de Ecclesia de Osencie, Abbatem primum super congregationem illam, & magnis redditibus, & domibus pulcherrimis dotavit illes. And then hee expelled the Nunnes out of the Monastery of Ambresbury, for their incontinency, and distributed them into other Nunneries, there to bee kept more strictly under restraint, and gave the Abby of Ambresbury to the Abbelle and house of Frum Everoit, to hold it for ever.

* Santhius King of Navar, and Alfonso King of * Roger de Castile, in the year 1177. Submitted the differences between them concerning certain Lands, Territories, 522, 10 366. Towns and Castles, to the determination of King Mat. Paris. p. Henry the ad. who thereupon summoned a Parliamen- 127. Mr. Seltery Council of his Bishops, Earles, Nobles and Barons, to Honour, p. hear and decide it by their advice: Wherein the 706. case being propounded, debated and opened before them by the Amballadours and Advocates of both Kings; appeared to be this. That King Santtins during the minority of King Alphonsus, an Orphant, his Nephew, Pupil, and innocent from any crime, unjustly and forcedly took from him without any demand, hearing or Title, divers Territories, Towns and Lands there specified, which his Ancestors had enjoyed, and of tight descended to him, which hee forcibly detained;

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pars pelter. p. dens Titles of Whereof hee demanded restitution and dammages On the other fide, Santins complained, that Alphonfus the Emperour, Father of this Alphonfus, had by force of armes, unjustly dispossessed his Grandfather of the Kingdome of Navarre, after whole death Garfias his Nephew, and next heir by the help of his friends and subjects recovered the greatest part thereof from the Emperour, but not all. Who dying, leaving his Son Alphonfo an infant, with whom Saudins made a league for ten years; Alphonfo during the League took by force of armes, divers Castles, Towns and Lands from Santting, being his inheritance; who thereupon demanded restitution both of the Castles, Towns, Lands, and Territories taken from his Grandfather by Alphon-(us his Father, and from himself by Alphans, together with the maine profit of the latter, quia fine ordine judiciario ejectus eft; King Henry having fully heard their cases; by the Addice and Assent of his Bishops. Garles and Barons, adjudged, that both these Kings should make mutual restitution, of what had been forcibly taken from either party, together with the mean profits and dammages for part of them, by an award and judgement under his Great Seal, subscribed by all his Bishops, Earles and Barons, which recites: Inper quarelis vero prataxatis de castellis & terris, cum omnibus terris & pertinentis suis binc inde bielentet et injuste ablatis; cum nichil contra Utolentiam strinque object am à parte alterntra alteri responderetur, nes quicquam quo minus restitutiones quas petebant faciendas effent, alligaretur Pleneriam utrinque perti fugradictorum que in jure petita erant fiert restitutionem abjudicabimus. A clear Parliamentary refolution and Judgement in point, That Territories, Lands, Towns, Castles injuriously taken by one King from another by force of armes and warre, without just Title to them, ought in Law and Justice to bee restored to the right heirs and owners of them, and that Conquett, and the longest brood, are no good Titles in Law or confeience

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science against the right beir or inheriter; which I desire those Sword-men and Lawyers, who now pretend us a conquered Nation, determine Conquest, or the longest Sword, a just Title to the Crowns, Lands, Revenues, Offices, Inheritances, Houles, Estates of other men now ladly to confider, together with the facred Texts, Hab. 7. Micha 3. 1, 2, 3, 4,5. Job 20. 10, 18, 19, 20. Obad. 10. to 17. Ezek. ch, 19. 6 35. 1/a. 33. 1. 1 King. 21. 1. 10 25. Math. 21. 33, to 41. Luk. 20. 14, to 17.ch. 19. 8. Judg. 17. 2, 3, 4. Exed. 22. 1, to 16. Levit. 6.4.5. ch. 24. 17, to 22. ch. 25. 27, 28. 7 ndg. 11.12, 13. 1 Sam. 12. 3, 4, 2 Sam. 9.7. 6h, 12. 5, 6. ch. 19. 9, to 43. 1 Sam. 7. 13, 14. 3 King. 14. 32. Ezra 1.7, 8, 9, 10, 11. ch. 6.5. which warrant the judgement and restitution they then awarded, together with this memorable All of resumption of the Crown, Lands, Rents and Revenewes alienated and given away by King Stephen to many Lords and Soldiers, to maintain his ulurped Title, to be just.

(4) King Henry the 21. Anne 1155. Prace- (1) Chronipit eacum omni integritate infra tempus certum a qui- Bromton, Col. buscunque detentoribus resignari, & in jus statumque pri- 1046. Gul. stinum revocari. Quidam vero indies carias quasa Rege Neubrigenfie. Stephano, vel exterferant, vel obsequiis emerant, quibus Hift. Angl. l. inti forent, protulerunt; pleading them in barre against the Kings resumption. Quibus fuit a Rege responsum (and let thole who have purchased or gotten any of the Crown Lands, Rents, Revenewes, by gift, or otherwise, now remember it) Quod carte Indasagis parjudicium legitimo Pzincipi minime facere deberent. Prima ergo indignati, deinde territi & consternati, agre quidem, fed integre Murpata, vel din tangnam folido iure detenta, omnia refignarunts their Charters being all adjudged voyd eisdemque instrumentis minime tuti esse potuerunt, as Nubrigenfis and Brompton inform us.

The great and long fuit between William de Sintevill and William de Monbray, which had continued many years in the Kings Courts, concerning the Bareny of Mon-

Monbray, was ended in a Parliamentary Council, by a final award there made between them; that William de Sinievil should release all his right and claim to the Barrony to William de Monbray, hee giving him nine Knights fees, and twelve pounds Annual Rent for this release, oning; super hoc dia certainm effer, tandem (Anno 1200, the 2d. of King Johns Reign) concitio Regni et boluntate Regis, pax & finalis concordia falla of interpredittos; (b) as Roger de Honeden relates, who records the agreement at large.

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p. 803 Seldens Titles of Honour, p. 707. (c) Mar. Paris. p. 417, 433.

(b) Annalium

pars pefterior

King (c) Henry the 3d. Anno 1236. in a Parliamentary Council held at York, Confident Magnatum Megni, ended the controversie between himself and Alexander King of Scots, touching the Lands King

John had granted him by his Charter in Northumberland, ratified by the subscriptions and affents of his Nobles, Earles, and Barons, Anno 1237. Rex Scripfit omnibus Magnatibus fuis, to appear before him and the Popes Legat at York, de arduis negociis regnum contingentibus tractaturis, where the difference between King Henry the 3d. and the King of Scots, (Summoned to be present at this Parliament) touching his Lands in England, were finally determined, and a firme peace made between them; the King of Scots being to receive three hundred pound lands a year in England, fine caftri conftructione, homaginmque Regi Anglia faceret, & fadus inter eos amicitia sanciretur, o boc se fideliter facturum Regi Anglia, & conservaturum juraret. After this (d) Anno 1244. King Henry furmoning all the Bishops, Abbets, and lay Barons to present all their military Services to him, marched with a great army to New-Caffle against the Scots, who had fortified two Castles, harboured rebels against the King, and made a peace with France against their former Covenant and League: VV here to avoid the effusion of Christian blood, which will cry to God for vengeance, congregate Uniperflitte Anglia Robitium apud memoratum caftrum, trattainmes diligenter super tam arduo negotio, Concilio

(d) Mat. Paris. p. 666. 667. babito girca Assumptionem beara Maria, digentissimo, Wherein the NOBLES made an agreement between the Kings of England and Scotland, Alexander King of Souts by his special Charter (recorded in Matthew Paris) promising and swearing for him and his Beirs, to King Henry, and his Heirs, quod in perpetuam bonam sidem in servahimm pariter & amorem. &c. Most of the Prelates, Earles and Barons of Scotland, sealing the charter with their Seals, and swearing to observe it invio-

lably, as well as their King.

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In the Parliaments of 18, 20, 21, 31, & 33. Ed. 1, There were many Pleas and Actions for Lands, Rents, and civil things as well as criminal, held before the King in Parliament, and adjudged, refolved in thefe Parliaments by affent of the King, and advice of the Lords, the Kings Judges and Council learned in the Laws; there being a large Parchment Volume of them in the Tower of London, where all may penule them, some of them being also entred on the dorfe of the Clause Rolls of thele years. Pasche 21. E. 1. Banco. Regis, Northumberland, Rot. 34. John le Machon a Merchant, lent a great fumme of mony to Alexander King of Scots, who dying, his Son and Successour retused upon petition to pay it: Whereupon hee appealed to the King of England for right, propter fuum fupremum Dominium Scotia: Thereupon the Sherifts of Northumberland by the Kings command, accompanied with four men of that County, went into Scotland to the Scots King, and there personally summoned him, to appear in England before the King of England, to answerr this Debt: After which all parties making default at the day, the Merchant was amerced. The King of Scott afterward appeared before the King but at the first time refused to answer; at last hee desired respite to bee given him that he might advise about it with his Council of Seetland, promising to appear at the next Parliament, and then to give his answer. And in Placis. coram Rege, Trin, 21. E. I. Scotia, there is an Appeal to the * Hhh King

King of England between subjects of Scarland in a civil caule, tanquam superiori regni Scotia Domino, And Clau-10 29. E. 1. derfe 10. there is a letter of all the Nobles. in Parliament to the Pope, de Jure Regis m regno Scoia forecised . 0. 127, 128, and Clasf. 10. E.3. der fo. 9. The King of Scots is filed, Vaffallon Domini Regis Anglia. It appears by Clauf. 5. E. 2. M. 30. that in a Parliament held at Stanford. 3. E. s. a bufiness touching Merchandize, and a Robbery on the Sea was heard and decided before the King and Lords in Parliament, between the Earle of Holland (who fent over a Proctor about it) and others, Clauf. 8. E. 2. m. 15. The Petition of David Earle of Afcelos in Scotland; by the Kings command, was read in full Parliament before the Prelates, Earles and Baranes, that hee might be reflored to his inheritance in Scotland, to which it was answered by all their A fents, that his inheritance was forfeired by his Ancestors, for offences by them commuted, &cc. but yet the King would give him fome other Lands for it. In Chang. 12. E. 2. it appears, that the Popes Legute came into the Parliament, and peritioned the King and Lords for a Legacy given by the Before of Durbam, Patriark of Jerufalem, lately dead: for which the Fing by affect of the Lords, gave him remedy by a Writ out of the Chancery. Clauf. 14. E. 1, m. 12. in the Schedula; there is a Judgement in Parliament by King Lords and Council touching the Abby of Abingdon, and a composition formerly, made between the Abbot, Prior and monks thereof, reverled, nulled, because inconvenient, Clanf. 14. E. 3. m. 17. dorso, there is a case concerning a reprilal brought by appeal out of the Chartery into the Parliament before the Fing, Lords and Council, and there heard and decided. And Clauf. 15. E. 2, there are many cases and Writs touching Repriles.

In the Parliament of s. E. 3. there were many Judgements given in fundry civil cases upon petitions; To the King Lords and Conneil by the Conneil by the King Lords and Conneil by the Conneil by the Conneil by the Con

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eil, extant in the bundle of Pertrieur, and Clauf. Rolls of that year, and those things that were proper for the Courts of Law and Chancery were referred to them to be there ended, Class. I. E. 3. m. I. Elpon the petition of Alice Gill, and Robert Carder to the King, Council, and Parliament, that they buying Corne in Abevil in France to transport to London, it was arrested by the Baily of St. Valeric to the value of one hundred pounds ar the fuit of Will de Countery of Crotye in Picardy, and delivered to him against their wills, because the Ship of the faid Will; was taken upon the Sea by the men of Bayon, which thip the petitioners finding in the port of London had arrested by writ out of the Chancery directed to the Sheriffes of London, until the faid hundred pounds was paid them by the Merchant; the King and Council ordered (upon their petition) that the hip might not be discharged till the too I.was fatisfied; & that 2 Writ should be directed out of the Chancery to the Sheriffes of London, to do Jultice upon the contents in the Petition according to the Law of Merchants. The like case of Reprile upon the Petition of Hugh Samson, is in 1.E.3.tot. 7. In Clauf. 1.E. 3. part 1 m. 10. There is a Judgement given by the Lords and Council for the Bishop of Durham, touching the Liberties and Royalties of his Bishoprick against the Kings revocation; where in lundry Petitions and aniwers in former Parliament under King Edward the 2d, are rehearfed, wherein hee could have no right. Mem, 13, there is a Judgement given by the Lords and Council in Parliament for the Bishop of Tork, his prilage and preemption of wines next after the King in the Port of Hull, and in Class, 1. E. 3, Pu. 2, m. 11. Class, 4. E. 3, m.g. remembred in the year Book of 6. E. 3. f. 50. So Clauf. 2. E.3. m. 20. in Schedula, there is Placitum in Parliamente, before the King and his Council of the Dean and Chapter of Litchfield, touching their Title to Camock, Clanf. 14.E.3. part 1, m.41. Upon the Petition of the Bishop of Carlifle, it was relolved by the Logos and Council in that, *Hhh 2

and fundry other Parliaments in the Reign of this King and his Father, non effe Juri conforum, that Churches and other things spiritual annexed to Archishopricks and Bishopricks, should belong to the King and Gardians of the temporalties, but to the Gardians of the spiritualties, and so ordered accordingly; yea so was it resolved upon the Petition of the Bishop of Winchester to the King and his Council in the Parliament of Clauf. 1. E. 3. rot. 9. dorfe Where coram Rege et Pagno Concilio conceffum eff et concognatum, quod enfrodes temporalium Episcopatus, non se intromittant ampline temporibue vacationum bujusmodi fructibm Ecclefiarum, de Estanmer, & Hamseldan, annexed to the Bilhoprick of Winchester.

(1) An exact Abridgement, P. 30.

In the Parliament of 14. E. 3. Sir Geoffry Stantens case, upon his Petition to the King and Lords in Parhament, the Justices of the Common Pleas came with the record of his case, which had long depended before them in the Court of Common Pleas, which being read and debated in the presence of all the LORDS, Justices and others of the Kings Council (their assistants in this case of Law) they resolved, that the Sonne being a stranger might aver, that his Father who levyed the fine, had nothing in the Lands, and shat the Wife in this cafe could not vouch her Huband. And thereupon a Writ under the great Seal was fent to the Judges by the Lords order, to give judgement accordingly, Clauf. 35. E. 3. m. 40. A villain commits fellony, and is attainted after that the Lord had seised his goods, whereupon his goods were prized and feifed on for the King. notwithstanding the Lords seisure; upon a Petition in Parliament, It was refolbed by the Logos and Council, that it was just the goods should be restored to the Lord, An ema if they were not feifed fraudulently to prevent the Kings seilure of them. And a Writ of Restitution Was thereupon awarded, per ipfam Regem es per Petitionem in Parliamento.

Abridgement. p. 423, 136, 437. to 21 3. to Walfingham. Hift. Angl. P. 3.33

(b) In the 6. year of King Richard the ad. it was agreed between the Duke of Lancafter, and the Scott in

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the Marches, that for the benefit of both parties, we do catero iph nec Anglici vexarentur per tot labores & expensas, sed fingulu annie cersi utriusque gentis destinarentur ad Parliamentum Regnt utriulque, qui et injurias accept as proferrent in medium, & emendas acciperent fecundum quantitatem damuerum per Judicium Dominorum, (here the Lords both in the Parliament of England and Sculand are made fole Judges of injuries and dammages done by Seas or English upon one another in the Marches:) Quia vero Scoti ad Parliamentum Londonis (Anno 1383.) [upersederunt venire juxta conductum, & m[uper damma interim plura Borealibon prasumpserunt inferre, de, Decretum elt per Parliamentum; ut frangenti fidem, fides fraugatur eidem. Et concessæ sunt Borealibus commissiones congregandi virtutem exercirus, & Scotis reliftendi, & damna pro damnis inferendi, quoties contingeret Scotos irrumpere, vel hostili more partes illas intrare.

In the (i) Parliament of 4.H. 4. n. 9. Upon the com- (i) An exact: plaint of Sir Thomas Pomeroy and his Lady against Sir Philip Courtney and others forcible entry into several Lands and Mannors in the Country of Deven. The Bing and 1020s abjudged, that the faid Sir Thomas thould enter into the faid Mannors and Lands, if his entry were lawful, or bring his Affixe, Without all delayes, at his e-

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In (4) the Parliament of 5. H. 4. ". 43, 43, 43, 44. (k) An exact inacase concerning Mannors, and certain Lands in Abridgement. the County of Cornwal, between the Prince, and John p. 430, Cornwal, and the Counteffe of Huntington his wife, the Bing and Lords gave Judgement, that the Prince hould be restored to the said Mannors and Lands being parcels of the Dutchey of Cornwal, and that the Prince after leifin had, should regrant them unto them, which was done accordingly in Parliament. (1) In 6 H; 4. n. 28; (1) Anexage Upon the Petition of the Prior of Coventry, the King Abridgement granteth by Affent of the Bilhops and Lozds, that no p. 490. man do break the head of their Conduits nor cast any filth-Hhh 3

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(h) An exact Abridgement. p. 423, 136, 437, to 213, to Walfingham. Hift. Angl. P. 332.

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filth into their water called Sherbourn, on pain of ten pound, and treble dammages to the Prior.

(m) An exact Abridgement, p. 560 In (w) the Parliament of 9. H. 5. ". 12. Upon long debates of the Leads and Justices, it was refolved by them, that the Abbot of Ramfi should have no prohibition against Walter Cook, parlon of Somersham, who steed for Titles of a Meadow called Cromland Mead, in the hands of the Abbots Tenants.

Abridgement.

In the (n) great-case of Precedency, between the End Marshall, and Earle of Warwick, in the Parliament of 3. H. 6. n. to, 11. de. Ets Logue being to bee Judges of the same, suspended both of them from string in the house, till their case was fully heard; and they all (voluntarily) swore on the Gospel, that they would uprightly judge the case, leaving all affection.

(0) An exact Abridgement, p. 610.

In the (e) Parliament of 11. H. 6. w. 32, 33, 34, 35. Upon a Petition, the King and Lozes in Warliement, adjudged, the Dignity, Seigniory, Earledome of Arundel, and the Caftle and Lands thereunto belonging to John Earle of Arundel, who proved his Title thereto by a deed of Entayle, against the Title of John Duke of Norfolck, who layed claim thereunto. And in the Parliament of 39 H. 6. w. 10. to 33. (7) The claime of the Duke of York, and his Title to the Crown of England, against the Title of King Honry the 6th, was exhibited to the Lords in full Parliament; the Lords upon confultation willed it to be read amongst them, but not to bee answered wishout the King. The Logos upon long confultation declared this Title to the King, who willed them to call his Justices, Sergeants and Attorney to an-Iwer the fame. Who being called accordingly, utterly refused to answer the same: Order thereupon was takon, That every Lozo might therein freely utter his conceit without any impeachment to him. In the end there were five objections made against the Dukes Titles who put in an answer to every of them; which done, the Lirds upon debate, made this order and agreement between the King and Duke. That the King should in-

Abridgement.

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in the Crown of England during his life; and the Duke and his heirs to succood after him. That the Dute and his two four fould bee fworme, by no means to forten the dayer. or impairs the preheminence of the King during his life: That the faid Dake from thenreforth foak be reputed and filed to bee, the very Heir apparent to the Crown, and hall injuy the same after the death or resignation of the said King. That the faid Duke shall have bereditaments alletted to him and his fons of the 'annual value of ten thousand marks. That the compassing of the death of the faid Duke shall bee Treason. That all the Bilbons and Lords in full Parliament Shall Swear to the Dute, and to his heirs in forme aforefaid. That the faid Duke and his two fone shall finear to believe the Lords for this agreement. The King by Affent of the Lords (without the Commons)) agreerbte all the Ordinances and accords aforefaid; and by the Affent of the Lords, mrterly repealed the statute of intayle of the Crown made in I. H. 4. So almaies as bereafter there be no better Title proved, for the defeating of their Istle and this agreement by the King. After all which the said Duke, and the two Earles his sonnes came into the Parliament Chamber before the King and LORDS, and sware to performe the award afore faid, with protestation, if the King for bis part duly observed the same, the which the King promised to do; All which was involled in the Parliament Rolls. Lo here the Lords alone without the Commons, judge and make an award between King Henry the 6th, and the Duke of York, in the highest point of right and title that could come in question before them; even the right and title to the Crown of England, then controverted and decided, the King and Dute, both submitting and attenting to their award, and promising, fwearing mutually to perform it, which award when made, was confirmed by an All paffed that Parliament, to which the Commons affented, as they did to other Acts and Bills.

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(a) Cottoni Pofthuma. p. 350.

(b) Walfingham. Hift. Angl. p. 104, Molinshed. Baker in Ed. 2.

admirable Providence and retaliating Justice, in the translation of the Crown of England from one head, family of the royal blood, to another, by blood, force, war, trealon, and countenance of the Authority of the temporal and spiritual LORDS and COMMONS in Parliament, in the two most fignal presidents of King Edward, and King Richard the 2d. which (a) some infift on to prove the Commons Coparenership with the Lords in the power of Indicature in our Parliaments, the Histories of whole Refignations of their Regal Authority and Sublequent depositions by Parliament, I shall truly relate.

(b) Anno 1326, the 19. of Ed. 2d. Queen Ifabel returning with her Son Prince Edward, and some armed to 119 Fabian, forces from beyond the Seas into England, most of the Earles and Barons (out of hatred to the Spencers and Grafton, Speed. King) repaired to them, and made up a very great army: The King thereupon proclaimed, that every man should refist, oppose, kill them (except the Queen, Prince and Earle of Kent, which they should take prifoners if they could) and neither hold any correspondency with them, nor administer victuals, nor any other affift ance to them, under pain of forfeiting their bodies & effates. But they prevailing, and the King being deferted by most, hee fled into Wales for thelter: Whereupon Proclamation was made in the Queens army every day, that the King (hould return and receive his Kingdome again, if hee would conforme himself to his Leiger. Quo non comparente Magnates Megnt, Beref goiæ Concilium inierunt, in quo film Regis Edwardm, faltus oft Cuffos Anglia communi Decreto: cui cuncti tanguam Regni custodi fidelitatem secerunt per fidei sacramentum. Deinde Episcopum Norwicensem fecerunt Cancellarium, Epilcopum vero Wintenienfem regni The faurarinm fratucrunt. Soonafter the King himself, with most of hisevil Counsellors were taken prisoners, being betrayed by the Welch in whom they most confided. Hugh Spencer, Simon Reding, Baldoik, and others of the Kings party being executed at Hereford, Anno 1327, the King being came to London about the feast of Epiphany, where they were received with great joy and presents. Then they held a Parliament wherein they all agreed, the King was unworthy of the Crown, and fit to be deposed, for which end there were certain Articles drawn up against him; which Adum de Orleion Bishop of Winchester thus relates, in his A pology (i) Ea autem que de Consilio et affensu omnium Pralatorum, Comitum et Baronum, et totius Communitatis dilli Regni concordata & ordinata fuerunt comra dictum regem ad amotionem fram a regimine regni, contenta funt in instrumentis publicis Reverendo parre domiro]. Dei gratia nune Canquarienti electo, tune Wintonienfi Episcopo et Anoliz Thefaurario, concepis et dictatis, & manu magistri Willielmi de Mees Clerici sui Secretarii & publici Notarii conscriçis et in publicam formam redactis. Quam quidem emcordiam ad mei excufationem duxi prafent bus inferendam, que talis eft.

Accorde est, que sine Edward siz aisne du roy, ait le government del Roialme, et soit rois Coronne par les Canses qu

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king eing 1. Primerment, Pur ceo que la persone ly Roy nest pas suffisaunt de governer. Car en iouz son temps ad il este mens et governe par autres que ly ount mavoisement confaillez, a deshoneur de ly, et destruction de seint Eglise, et de tout son people, saunz ceo que il le vousst veer ou conustre le quel il sust bon ou mavoys, ou remedie mettre, ou faire le vousst quant il suist requis par les graunts et sages au son Rosalme, ou suffir que amende suist faite.

2. Item Par tout fon temp; Ine se voloit doner a bon consail ne le croire, ne a bon governeme, t de son Roialm, meys se ad done toux jours as our aignes et occupationes nient covenables, ensre-

lessaunt lesploit des bosoignes de sou Roialme,

Item, Par defaute de bon governement ad il perdule Roialme Delcoce, et autres terres et seignuries en Gascoygue & Hytland, les quex son pere li lessa en pees & amiste ly Roy de Fraunce, et detz montes des autres graunts.

4. Item, Par sa sierce & qualte & par mavoys consail ad il destruit seint Eglise, & les persones de seint Eglise tenuz en

prisonn les uns, Et les alires en destresce, et auxint plusours graunts et nobles de sa terre mys a hountose mort, enprisonez exuletz & dispernez.

5. Item, La ou il est tenuz par son serement a faire droit a toux, il ne lad pas volu faire, pur son propre prossis et covetise de ly & de ces mavois counsaili es que ount est e pres de ly. Ne adgarde les autres pointz del serement qil sist a son coronnement, si com il seust tenuz.

6. Item, Il deguerpist son Royalme, et sist taunt come en ly fust qe son Roialme & son poeple fust perduz, & ge pys est, pur la erualte de ly & defaute de sa personne il est trove incorrigible sauntz esperaunce de amendement: les quex cho-

ses sount si notoires qil ne poount estre des diz.

The form and instrument of his deposition is thus recorderon, 1.7.c. 43 ded by (d) Ranulp. Cistrensis, and (e) Henry de Knyghton:
(c) De Event. Also that year in the Octaves of Twelfih day was made a Angl. 1.3. c. 15. Parliament at London: There BY OR DINANCE with col. 2549 a solemn message is sent to the King that was in prison, 3 Bishops, 3 Earls, 3 Barons, 2 Abbots, 2 Justices, for to resign to the King that was then in warde, the homage that was make to him some time, for they would no longer have him for their Lord; One of them Sir William Trus-

H ft. Angl. p. fel Knight, and PKOCURATOR OF ALL THE PARLIAMENT, spake to the king in the name of all 228. to 402. Hall, Fabian, the other, and laid: I William Truffel in the name of all men of the land of England, and of all the Parleament Holinshed, Grafton, Stow, Bocurato, I resign to thee Edward the homage that was Trussel, Hen-made to thee jometime. And from this time forthward now ry de Knygh-following I defie whee, and pipte thee of all real power. ton, and oand I hall never be tendant to thee as for King after this time. thers. Also this was openly cryed'at London. The true form of his deprivation is thus recorded in the Chronicle of Legcefter , and transcribed out of it by Henry de Knighton in French: Jeo William Trustel Procurator dez Prelatez, Contez, et Barons, et altrez Gentz en ma procuracye nomes, Eyantal ceo ployne & suffysant poure, et Homages, et Fealtez au vous Edward Roy Dengleterre come al Roy

avant ces oeures de par lez ditz persones en ma procura-

cye nomes renk et rebaylle sus a vous Ed. et deliver et sa-

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ce quitez lez periones avant ditz, en la meillour manere que ley et cuitome donnent, E face protestacion en nom de eaux, quis ne voillent deformes eftre en voltre fealte, ne en vostre lyance, ne cleyment de vons come de Roy riens tenir. Encz vous teignent deshorie priveye persone lans nule manere de reale dignite. Cum hac Rex audisser, multum de suis malefactis doluit, rugitus et lamenta emittens, eo quod per fallos et proditiolos confi-

liarios lic omni luo tempore ductus fuerat.

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(f) Thomas of Walfingham thus relates the proceeding . Convenit etiam illuc tota regni Nobilitas citata per (f) Hift, Angl, prius ad Parliamentum tenendum ibidem crastino dicti P. 107. festi, ubi cuncti censuerunt regem indignum diademate, et propter plures articulos deponendum, et Edwardum filium ejus primogenitum in regem unanimiter eligen-Quod etiam conlequenter factum fuit, et electio in aula magna West monasterii publice divutgata, per quendam ex Magnatibus sapientem. Cui electioni confenfit populus universus. Archiepiscopus vero Cantuaria prasenci consensit electioni, ut omnes Prælati: & Archiepiscopus quidem assumpto themate, vox populi, vex Dei; sermonem feci populo, exhortans omres ut apud regem regum intercederent pro electo. Facto fermone discessum est: Ut autem notuit Reginæ filii sui electio, et viri dejectio, plena dolore (ut toris apparuit) fere mente alienata fuit. Edwardus quoque filius finis materno dolori compassus, juravit, quod invito patre nunquam iulciperet coronam regni. Idenco communi decreto, ex parce totsus regni tres Episcopi, duo Comites, et duo Abbates, et de quolibet Comitatu regni tre: milites, ac etiam de Londoniis, et alies civitations et magnis villis, et pracipue de portubus, de qualibet certus numerus person arum missi sunt ad regem apud Kenelworth, qui nunciarent electionem filis sui, et requirerent diligenter, quod renunciaret dignitati regia et corona, et permitteret eundem filium suum regnare pro eo; alioquin ipsi redderent sibi homagia, et procederent in pratattis. Rex autem ut hæc audivit, cum fletu et ejulaou respondit; quod multum doluit de eo, quod sic demeruit erga populum ini regni; et ab omnibus qui aderant

veniam precabatur. Sed ex quo aliver este non potuir, gratias egit quod filium suum primogenitum elegissen. Nuncii vero ad Parliamentum Londonias redeuntes cum regis responso et insigniis, plebem letam secerum: mox tota regni Communitas Edwardum juvenem quatuordecim annos habentem, in regem promptissime admisserum, et vicessimum diem Ianuarii, diem primum regni sui este decreverunt, et in omnibus comitat ibus pacem ejus pro-

clamari fecerunt fub hac forma.

Edwardus Dei gratia Rex Anglia, dominus Hibernia, dus Aquirania, vicecomiri de N. salutem. Quia Dominus Edwardus nuper Rex Anglia, pater notter, de communi consilio et affen u Pralatorum, et Comitum, et Baronum, et aliorum Magnatum, nec non Communitatum totius regni predicti, iportanea voluntare se amovit a regimine dicti regni, volens et concedens, quod nos tanquam ipfius primogenitus, et hæres iphus, regni gubernationem et regimen astumamns. Nosque ipfius patris nostri beneplacito in hac parte de Confilio et avisiamento Pralatorum, Comitum et Baronum pradictorum annuens, gubernacula fulcepimus dicti regni, et fidelitates, et homagia ipforum Prælat. et Magnat. recepimus ut est moris. Defiderantes igitur pacem nostram pro quiete et tranquillitate populi nostri inviolabiliter observari, tibi præcipimus, quod statim vilis prælentibus, per totam Ballivam tuam pacem nostram facias publice proclamari, universis et singulis ex parce nostra inhibendo, sub pæna et periculo exharedationis et amillionis vita et membrorum, ne quis dicham pacem noftram infringere feu violare præfumat, fed quilibet actiones & querelas abique violentia quacung; prolequatur, lecundum leges et consucrudines regni nostri. Nos enim parari sumus ,et sempererimus omnibus et singulis conquerentibus tam divitibus, quam pauperibus in curiis noftris plenam justiciam exhibere. Teste meipfo, &c. calendas Febr. die dominica in vigilia Purificationis.

The Proceedings and Articles against Rich, a, and the manner of his Resignation, Deposition being somewhat mistaken, and not so sully related in our vulgar H. Rorians, I shall present you with the true Narration of them out of the Parliament Roll it self where

they are thus at large recorded.

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Rotulus Parliamenti Summoniti & tenti apud West monasterium in sesto Sanca: Fidu Virginis, anno regni Regis Henrici quarti post Conquestum primo, Membr. 20.

Les Record & proces del renunciation du Roy Richard le Second après le conquest & del acceptation de mesme la renunciationi, ensemblement ove la deposition de mesme le Roy Richard ensuent cy après.

TEmorand. Quod die Luna in festo fancti Michae-VIII Archangeli Anno Regni Regis Ricardi [ccundi 23, Domini Spirituales & Temporales, & aliz persona notabiles: videlicet, Dominus Richardus le Serop, Archiepilcopus Eboracenfis, Io. Epilcopus Hereford, Hen. Comes Northumbr. & Radulfus Comes Westmorelandia, Dominus Hugo le Burnel, The. Dominus de Berkley, Prior Cantuar. & Abbas West monasterii, Williel: Thyrninge Miles, & Johan. Markham Jufliciarii, Tho. Stow, & Johan. Burbache, Legum Doctores, Thom, de Erpingham, & Tho. Gray Milites, Will. de Feryby, & Dionysius Lapham, Notarii publici: de quorundam Dominorum Spiritualium, & Temporalium, ac Justitiariorum & aliorum tam in Jure Civili & Canonico, quam in regni legibus peritorum, apud Westmonast. in loco consueto Coneilii congregatorum affenfu & avilamento ad a Sum subscriptum primitus deputati, ad præsentiam dicti Regis Ricardi intra turrim London, existentis circiter nonam pulsationem horologii accellerunt, & recitato coram codem Rege per prædictum Comitem Northumbr. vice omnium prædictorum, fibi ut premitritur adjunctorum, qualiter idem rex alias apud Coneway in Northwallia, in lua liberrate exiltens promisit Domino Thoma Archiepiscopo Cantuariensi & disto Comiti Northumbr. se velle cedere, & renuntiare Coronæ Anglia & Francia, & luz regiæ Majestati ex causis per ipsum Regem ibidem de fua

fua inhabilitate, & insufficientia confessatis, & hoc meliori modo, & forma quibus facere poterit, prout peritorum confilium melius duxerit ordinandum. 1dem rex coram dictis Dominis & aliis superius nominatis, adhoc benigne respondens dixit, se velle cum effectu perficere quod prius in ea parte promisit. Defideravit tamen habere colloquium cum Henrico Duce Laurastrie, & przesato Archiepiscopo Cammariens confanguineis fuis, antequam promissum suum hujusmodi adimpleret. Petivit tamen copiam cessionis per ipsum faciendæ sibi tradi, ut super illa possit interim deliberares qua quidem copia fibi tradita, dicti Domini, & alif ad fua hospitia recesserunt. Postea cadem die post prandium, dictorege plurimum affectante prædicti Ducis Lancastria adventum, & illum diutius prz-Rolante, tandem idem Dux de Lancastria, Domini & persona superius nominati, ac etiam dichis. Archiepiscopus Comparienfis venerunt ad præsentiam dieti Regisin turri prædicta, Dominis de Ross, de Wiloghby, & de Abergeny, & pluribus alus tune ibidem præfentibus. Et postquam idem Rex cum dictis Duce Lancastria & Archiepiscopo colloquium habebat, ad partem vultu hilari hine inde inter cos exhibito, prout circumfrantibus videbatur, tandem dictus Rex accersitis ad cum omnibus ibidem præfentibus, dixit publice coram illis, quod paratus erat ad renuntiationem faciendam, & ad renuntiandum & cedendum fecundum promissionem per cum ut præmittitur factum: Sicq; incontinenti, licet poruillet ut fibi dicebatur ab aliis ceffionem & renuntiationem in quadam schedula pargameni redadam per aliquem deputatum organum vecis mæfecifie, pro labore ram prolixo lecturævitando, Idem tamen Rex graranter, ut apparuit, achilari vultu schedulam illam manu sua tenens, dixit, semetipsim velle legere, & distincte prelegit eandem. Necnonabfolvit ligeos suos, renuntiavit, & cessit, & juravit, & alia dixit, & protulit in legendo, & le lubscripsit manu fua propria, prout plenus continetur in dica schedula, IN cuius tenor talis elt.

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IN NOMINE DEL, Amen, Ego Rich. Dei gratis Ren Angliz & Francia, & Dominus Hibernic omnium dictorum Regnorum & Dominisrum Archiepifcopos, Episcopos, & alior quoscung; Ecolofiarum Secularium, vel Regularium Pralatos enjuscungs dignicatus, gradus, status, fon conditionisteniftant; Duces, Marchiones, Comites, Barones, Vafalles, & Valvafores, & Ligeos homines mees quosoung exclesiastices, vel seculares queonug; nemine cenfeanour, à juramente fidelitaoù & homagil, & alise quibuscung, michi fattu, omniq; vincula ligeantia, & Regalia, ac Dominii quibm obligati mibi fuerine, vel fint, vel aline quemo delibet adfricti, absolve; Et ess, & baredes ipforum, & successores in perperunm, ab iifdem obligationibm, & juramentes, & alise quibuscung; libero, relano, e quieto, & liberos, folutos & quietos ac immunes, quantum ad personam meam attinet, dimitto, ad effectum omnem juris qui ex premissis segui poterit, sen aliquo pramisserum, omnig; Regia dignitati, ac majestati, & Corona, neenen Dominio, & potestati dictorum Regnorum, & Domimii: aliifq; Deminiu & possessionibus meu, sen mibs quemodolibet pertinentibut, fen competentibut quibufeung;, quocung; nomine censeantur infra Regna, & Dominia pradicta, vel alibi ubilibet constitutus, Omniq; juri, & colorijuris; ac titulo; posessioni ac dominio que unquam habui, babeo, fen quovismodo babere potero, in iifdem, fen eorum aligno, velad ea cum sus juribus & pertinentiis untversis, sen dependentibus quatitercung; ab eisdem, vel eorum aliquo Necnon regimini, & gubernationi distorum Regnorum & Dominiorum bujufmedi, & corum administrationi, omnibufq; & omnimodis mero & mixto imperio, ac jurifdictions in iifdem reguis, & Dominiis mehi competentibus, vel competituris, nominia; , honori, ac Rogalia, en Celeitudini Regiis, pure, sponte, simpliciter, & absolute, melioribus made, via, & forma quibus poteris in his scriptis renuntio, O' ea in totum resigno, acre, & verbo demitto, & iifdem cedo, & ab iifdem recedo in perperuum. Salvis successoribus meis regibus Anglia in Regmis, & Dominiis, & ceteris omnibus premistis in perpetuum, juri-

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bus in ii (dem. fen corum aliquo competentibus, vel compevituris quibufcung; Meg; adregimen, & gubernationem dictorum Regnorum, 40 Dominiorum cum. fuis persinentiis universis fateor, recognosco, reputo, & veraciter, ex certa Cientia judica fuife, & effe infufficientem penitus, & inutilem, ac propter mea demerita notoria non immerito depomendum. Et juro ad bae fantta Dei evangelia, per me corporaliter tacta, qued nunquam pramifis refignationi, remuntiationi dimifsioni, O cefsioni contraveniam, fen ca quomodelibes impugnato facto, vel verbe; per me, vel per alium, vel per alios of fen contraveniri, vel impugnari permittam quantum in me eft publice vel occulte; fed eafdem rementiationem, refignationem, dimissionem, & cessionem in perpetuam ratas & gratas babebo, & firmiter tenebo. & observato intero, & omni sui parte, sient Deus me adjuves, & bec fautta Dei Evangelia.

Ego Richardas Rex antedicus propria mea

Et statim idem Rex renuntiationi, & cessioni pradictis, verbo tenus adjunxit; quod si esset in potestate lua, didus Dux Langastria succederet sibi in Regno: sed quia hoc in potestate sua non dependebat ut dixitadi dos Eboracensem Archiepilcopum, & Episcopum Herefordensem, quos protunc constituit suos procuratores ad declarandum, & intimandum ceffionem, & remintiationem hujulmodi omnibus statibus diai regni, rogavit ut intentionem, & voluntatem suam in ca parte populo nuntiarent, & in fignum fuz voluntatis, & intentionis hujulmodi, annulum auri de figneto suo, patenter de digito suo tunc ibidem extraxit, & digito dicti Ducis Lancastria appoluit, Desiderans hoc insum ut afferuit, omnibus regni statibus innotesci. Quo facto, valefacientes hinc inde omnes turrim prædictam exierunt ad lua hospicia reversuri.

In crastino autem, videlicet in die Martis in sesto Sanai Hieronymi in magna aula apud Westmanasserium in loco ad Parliamentum tenendum honorisiee præ-

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parato, dictis Archiepilcopo Cammarienfi & Eboracenfi, ac Duce Laucastria, aliisq; Ducibus, ac Dominis tam Spiritualibus quam Temporalibus quorum nomina describuntur interius, populog; dicti regni tunc ibidem propter factum Parliamenti in magna multitudine congregato præsentibus; ac præsato Duce Lancastria locum statui suo debitum, & folitum occupante, ac sede regali cum pannis auri solempniter præparata, tune vacua ablg; presidence quocunque, supradictis Archiepiscopus Eboracensis suo & dichi Herefordensis Epilcopi nomine juxta dicti Regis injunctum ceffionem & renuntiationem per iplum fic fuille ut præmittitur factam, etiam cum subscriptione regiæ manus, & traditione figneri sui publice declaravit, eandemq: ceffionem, & renuntiationem per alium, primo in Latinis verbis, postea in Anglicis legisecit ibidem; & statim, ut fuerat interrogatum a statibus & populo ibidem præsentibus, primo videlicet ab Archiepiscopo Cantuariensi prædicto, cui ratione dignitatis & prærogativæ ecclesiæ suæ Cantuaria Metropoliticæ, in hac parte competit primam vocem habere inter cateros-Prælatos & Proceres regni, fi pro corum interelle, & utilitate regni vellent renunciationem, & cestionem hujusmodi admittere: statusq; iidem, & populos reputantes ex causis per ipsum Regem in sua renunciatione, & cessione prædictis significatis, hoc fore multum expediens, renunciationem, & cessionem hujusmodi singuli singillatim, & in communi cum populo. unanimiter, & concorditer admiserunt. Post quam quidem admissionem tuerat publice ibidem tunc expolicum, quod ultra cellionem & renunciationem hujulmodi ut prætertur admislam, valde foret expediens, ac utile regno prædicto, pro omni scrupulo, & sinistra suspicione tollendis, quod plurima crimina, 30 defectus per dictum regem circa malum regimen regni fui frequentius perpetrata, per modum atticulorum in scriptis redacta, propter quæ ut idem afferuit, in celsione facta per eum, effet iple merito deponendus; 111 2. pubpublice legerentur, quodq; essent populo declarasa. Sicq; maxima pars articulorum illorum erat publice perlecta tunc ibidem; quorum omnium articulorum tenor talis est.

Sequitur forma juramenti soliti & consueti præstari per Reges Anglie in corum Coronatione; quod Archie-piscopus Camariensis ab cisdem regibus exigere & recipere consuevit, prout in libris pontificalium Archie-piscoporum & Episcoporum plenius continetur.

Quod quidem juramentum Ricardas Rex Anglia post Conquestum secundus in Coronatione sua prastitit, & ab Archiepiscopo Camuarius erat receptum; & illud idem juramentum dichis Rex postmodum iteravir, prout in rotulis Cancellariz plenius reperiri

poterit de recordo.

Scrvabis ecclefiæ Dei, & populo pacem ex integro & concordiam in Deo secundum vires tuas. Respondebit, Scrvabo. Facies sieri in omnibus judiciis tuis æquam & rectam justiciam & discretionem in misericordia & veritate secundum vires tuas. Respondebit, Faciam. Concedis justas leges & consuetudines esse tenendas, & promittis per te esse protegendas, & ad honorem dei corroborandas quas vulgus elegerit, secundum vires tuas, Respondebit, Concedo & promitto.

Adjicianturq; prædictis interrogationibus quæ justa fuerint; Præmunciatisq; omnibus confirmet Rex, se omnia servaturum Sacramento super altare præstito

coram cunctis.

Inprimu, Objicitur Regi Richardo quod propter malum regimen suum, videlicet bona & possessiones ad Coronam suam spectantia, etiam personis indignis donando, & indiscrete dissipando, & ob hoc collectas, & alia onera gravia & importabilia populo sine causa imponendo, necnon alia mala innumerabilia perpetrando, alias de assensu. & mandato suis per totum Parliamentum ad gubernationem regni certi Prælati, & alii Dominitemporales erant electi, & assignati, qui totis viribus suis circa justam gubernationem regni

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propriss sumptibus suis sideliter laborarent; tamen Rex facto per eum Conventiculo cum suis complicibus, dictos Dominos tam Spirituales quam Temporales circa Regni utilitatem occupatos de alta proditione impetere proponebat, ac Justitiarios Regni ad suum nefandum propositum corroborandum metu mortis, & cruciatus corporis violenter attraxit, dictos Dominos destruere satagendo.

2 Item, Idem Rex nuper apud Salopiam coram le, ac aliis fibi faventibus venire fecit quamplures, & majotem partem Justitiariorum cameraliter, & cos per minas, & terrores varios, ac etiam metus qui polfunt cadere in constantes, induxit, fecir, & compulit figillatim, ad respondendum certis quastionibus pro parte ipsius Regis factis ibidem tangentibus leges regni fui, præter, & contra voluntatem corum, & aliter quam respondissent, si fuissent in libertate sua, & non coacti. Quarum Responsionum colore idem Rex propolisit processisse postmodum ad destructionem Theme Ducis Gloncefria, & Comitum Arundel, & Warwick, ac aliorum Dominorum, contra quorum facta & gesta prædictus Rex erat quamplurimum indignatus, maxime quia desiderabant cundem Regem esse. fub bono regimine. Sed divino nutu obstante, refistentia & potentia dictorum Dominorum Rex propofirm fuum hujulmodi perducere non potust ad afte-

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3 Item, Cum Domini Temporales ejus malitizac dolostrati scipsos desendendo restitussent, dictus Rex diem
Parliamenti sui pro justitia eis, & aliis Regni-colis in
hac parte ministranda præfixisset, dictig Domini
Temporales in suis domibus sub spe & siducia Parliamenti prædicti quiete, ac pacifice resedissent: Rex
clanculo Ducem Hibernia cum suis litteris, & vexillo
ad parces Cestria destinavit, ibiq; nonnullas gentes ad
arma commovir, & contra dictos Dominos, & magnates Regni, & Reipublica servitores insurgere secit,
rexillumejus contra pacem per eum juratam publice
erigendo.

rerigendo; unde homicidia, captivitates, dissentiones, & alia mala infinita in totum regnum secuta sucrunt

quare perjuriam incurrebat.

4 Item, Licet dictus Rex omnem oftensam dicis Duci Gloncefrie & Comitibus Arundei, & Warwick. 3c omnibus aliis sibi in hujusmodi factis assistentibus & aliis in pleno Parliamento de assensu ejusdem perdonasset pacifq; & amores signa per plures annos eifdem Duci & Comitibus, & aliis voltum hilarem & benignum exhibuiffet; Idem tamen Rex semper & continue fel in corde gerens, tandem opportunitate captata dictum Ducem Gloncestrie plius Regis avunculum, necnon bonæ memoriæ Edwardi nuper Regis Anglia filium, & Conestabularium Anglia dicto Domino Regi cum pro cessione solempni humiliter occurrentem, dictofq; Comites Arundell & Warnick capi, & arestari fecit, & ipsum Ducem extra regnum Anglie ulq; ad Villam Calefie duci tecit, & ibidem incarceraris& sub custodia Comitis Nottingham unius ipsum Ducem appellantium detineri, & fine responsione & processu quocunq; legitimo occulte suffocari strangulari, & murdrari inhumaniter, & crudeliter fecit. "Comitema: Arundet, tam carram de dicta perdonatione generali, quam cartam perdonationis postea fibi concessam allegantem, & justitiam sibi fieri petentem, in Parliamento suo, viris armatis, & sagittariis innumeris vallato, per impressionem populi per eum ad hoc collecti dampnabiliter decapitari fecit; Comitemo; Warwick, & Dominum de Cobham perpetuis carceribus mancipavit, corum terras, & tenementa, tam in feodo fimplici quam'in feodo talliato de le & hæredibus fuis contra justitiam & leges regni sui & juramentum suum expressum nequiter confiscando, & corum appellantibus concedendo.

5 Item, Tempore quo idem Rex, in Parliamento luo fecit adjudicari Ducem Glonceffria, & Comites Arundell, & Wartick, ut liberius possir exercere crudelizatem in cosdem, & voluntatem suam injuriosam in

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aliis adimplere, fibi attraxit multitudinem magnam malefactorum de Comitatu Cestria, quorum quidam cum Rege transcuntes per regnum, tam infra hospitium Regis, quam extra ligeos regni crudeliter occiderunt, & quoldam verberaverunt, vulneraverunt, & deprædarunt bona populi, & pro suis victualibus solvere recusarunt, & uxores, & alias mulieres rapuerunt, & violaverunt, & licet super eorum hujusmodi excessibus graves querimoniæ deferebantur ad audientiam dicti Domini Regis, idem tamen Rex super hiis justitiam, seu remedium sacere non curavit, sed savebat iisdem gentibus in maleficiis eorundem, considens in eis, & eorum præsidio contra quoscunq; alios regni sui, propter quod sideles regni sui magnam commotionis & indignationis materiam habuerunt.

6 Item, Licet dictus Rex per brevia sua proclamari tecerit per totum regnum luum, quod Avunculum luum Ducem Gloucostrie, & Comites Arundell & Warwick capi fecerit, & arreltari, non pro aliquibus congregationibus, & equitationibus per eos intra regnum Anglia factis, sed pro quampluribus extortionibus, oppreffionibus & aliis contra Regulam fuam, & Regiam Majestatem postmodum tactis & perpetratis per cos, quoda; non erat intentionis iplius regis quod aliquis de familia prædictorum Ducis Gloncestria, ac Comitum Arundell, & Warmick seu corum qui in comitiva seu tempore congregationis, & equitationis prædictarum fuit, ea occasione molestern aliqualiter, leu gravetur: Idem tamen Rex tandem in Parliamento Iuo dictos. Dominos non pro extortionibus, oppressionibus aut aliis prædictis impetiit, sed pro congregationibus & en quitationibus supradictis eos adjudicavit ad mortem, & quamplures de familia eorundem Dominorum, & aliorum qui in comitiva fua tempore congregationis, & equitationis fuerunt, metu mortis compulit fines & redemptiones facere, utpote traditores, vel proditores, ad gravem destructionem quamplurium hominum de populo suo. Sicq; dictos Dominos & corum fami-Kkk liarcs,

liares hajulmodi & populum regni fui callide,

fraudulenter, & maliriofe decepit.

7 Item, Postquam quamplures de personis illis sacientibus sines & redemptiones hujulmodi impetravement à Rege literas suas patentes pardonationis plenariæ in præmissis, nullum commodum ex hujulmodi literis perdonationis poterant reportare, donec novos sines, & Redemptiones pro corum vita conservanda fecissent, unde suerant quamplurimum depatrperati; pro quo nomini, & statui Registuerat plurimum de-

rogatum.

8 Item, In Parliamento ultimo tento apud Salopiam idem Rex proponens opprimere populum fuum procuravit subtiliter; & fecit concedi, quod potestas Parliamenti de consensu omnium Statuum Regni sui remaneret apud qualdam personas, ad rerminandum dissoluto Parliamento certas peritiones in codem Parhiamento porrectas; protunc minime expeditas; Cujus concessionis colore personæ sic deputatæ processerunt ad alia generaliter Parliamentum illud tangentia, & hoc de voluntate Regis, in derogationem Status Parliamenti, & in magnum incommodum totius regni, & pernitiofum exemplum. Et ut super, factis corum hujusmodi aliqualem colorem & authoritatem viderentur habere, Rex fecit Rotulos Parliamenti pro voto fuo mutari & deleri, contra effectum concessionis pradicta.

9 Item, Non obstante quod dictus Rex in Coronatione sua juraverit, quod sieri saceret in omnibus judiciis suis aquam & rectam justitiam & discretionem in misericordia & veritate secundum vires suas: dictus tamen Rex absq; omni misericordia rigorose inter catera statuit; & ordinavit sub gravibus poenis, quod pro Henrico Duce Lancastria relegaro, pro aliqua gratia sibi facienda nullus rogaret, aut intercederet apud eundem Regem; In quo sacto idem Rex contra charitatis vinculum operabatur, juramentum prædictum temere

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to Item, Quamvis Corona regni Anglie & jura ejustem Corona, ipsumq; regnum suerint ab omni tempore retroacto adeo libera, ut dominus summus Pontitex, nec aliquis alius extra regnum se intromittere debeat de iisdem: tamen præsatus Rex ad roborationem
statutorum suorum erroneorum supplicavit Domino
Papz, quod statuta in ultimo Parliamento suo ordinata consitmatet, super quo Dominus Rex literas Apostolicas impetravit, in quibus graves censuræ proferuntur contra quoscunq; qui dictis statutis in aliquo
contravenire præsumpserint. Quæ omnia contra Coronam, & dignitatem regiam, ac contra statuta, & li-

berrates dicti regni tendere dinoscuntur.

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11 Item, Licet Dominus Henricm nune Dux Lancastrie billam fuam, statum & honorem Regis concernentem ad ipfius Regis mandatum contra Ducem Norfolcia proposuit, & eandem fuisset debite prosecutus, adeo quod juxta Regis ordinationem se ad duellum in omnibus paratum exhibuiflet, præfatulg: Rex iplum nunc Ducem Lancastria, debitum suum in hac parte honorifice quantum in iplo fuerat implevisse pronuntiafier, & declaraffer per decretum, & hoc coram toto populo ad duellum hujulmodi congregato fuillet publice proclamatum; Idem tamen Rex prædictum nunc Ducem Lancastrie, sine quacunq; causa legitima ad decennium exlegari fecit & mandavit, contra omnem jultitiam, & leges, & confuetudines regni fui ac jura militaria in hac parte, perjurium dampnabiliter incurrendo.

ra Item, Postquam dictus Rex. gratiose concessis per literas suas patentes Domino Henrico nunc Duci Lancastria, quod in ipsius absentia dum suerat exlegatus generales atturnati sui possent prosequi pro liberatione sibi facienda de quibuscunq; hæreditatibus, sive successionibus ipsum extune contingentibus, se quod homagium suum respectuari deberet pro quodam sine rationabili faciendo, literas illas patentes injuriose revocavit, contra leges terræ perjurium incurrendo.

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13 Item,

fingulis anais Officiarii Regis cum Justitiariis; & aliis de Consilio Regis Vicecomites per omnes comitatus regni eligant, & nominarent Domino Regi secundum quod corum discretioni, & conscientia pro bono, & utilitate regni videbitur expedire: Idem Rex non nominatos aut electos hujusmodi, sed alios pro suo libitu voluntatis, quandoq; suos familiares, quandoq; tales quos scivit nolle resistere voluntati sua in Vicecomites sieri mandavit pro suo & aliorum commodo singulari, ad magnum gravamen populi sui, & contra leges regni sui, perjurium notorie incurrendo.

14 Item, Tempore illo quo Rex pradicus petivit, & habuit à quampluribus Dominis & aliis de regno plures pecuniasum fummas ex causa mutui, certo termino solvendas, Non obstante quod idem Rex per singulas literas suas patentes promisit bona side singulis personis à quibus mutuo recepit pecunias illas, quod eis limitato termino pradicto resolveret hujusmodi pecunias mutuatas, promissionem suam hujusmodi non adimplevit, nec de pecuniis sillis est hactenus satisfactum, unde creditores hujusmodi valde gravantur, & non tam illi, quamplures alii de regno regem repu-

tant infidelem.

15. Item, Ubi Rex Anglia de proventibus regni sui, & patrimonio ad Coronam suam spectante possis honeste vivere abse; oppressione populi sui, dummodo regnum noneste guerrarum dispendio oneratum. Idem Rex quasi toto tempore suo durantibus treugis inter Regnum Anglia; & adversarios ejus, non solum magnam immo maximam partem dicti patrimonii sui donavit etiam personis indignis, verum etiam propterea tot onera concessionis subditis impossit quasi annis singulis in Regnosuo, quod valde & nimium excessive populum suum oppressit, in depauperationem regni sui, ea bona sie levata, non ad commodum & utilitatem regni Anglia convertendo, sed ad nominis sui oftentationem, & pompam, & vanam gloriam prodige

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dines regni sui servare, seu protegere, sed secundum suarbitrium voluntatis facere quicquid desideriis ejus occurreret, quandoq; & frequentius quando sibi expositæ & declaratæ suerant leges regni sui per Justitiarios, & alios de Concilio suo, & secundum leges illas petentibus justitiam exhiberet, dixtexpresse vultu austero, & protervo, quod leges sua erant in ore suo, & aliquotiens, in pectore suo, & quod ipse solus possit mutate, & condere leges regni sui; & opinione illa seductus quampluribus de ligeis suis justitiam fieri non permisit, sed per minas & terrores quamplures à prosecutione communis justitiæ cessare coegis.

17 Item, Quod postquam in parliamento suo certa statuta erant edita, quæ semper ligarent donec authoritate alicujus alterius Parliamenti fuerint specialiter revocata: Idem Rex cupiens tanta libertate gaudere, quod nulla hujulmodi statuta iplum adeo ligarent quin posset facere, & exequi secundum suæ arbitrium voluntatis, prout non potuit, procuravit subtiliter talem petitionem in parliamento luo pro parte Communitatis regni lui porrigi, & fibi concedi in genere, quod posset esse adeo liber sicut aliquis progenitorum suorum extitit ante eum; quarum petitionis & concelhonis colore frequentius mandavit, & fecit idem Kex quamplura fieri contra statuta hujulmodi minimerevocata; veniendo exprelle & scienter contra juramentum fuum in coronatione fua præftitum ut præfertur, prout interius declaratur.

18 Item, Licer statutum fuit & ordinatum quod nullus Vicecomes officium fuum occuparet continue ultrà annum unum, sed triennium laberetur antequam

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ad officium illud admitteretur de novo; Idem Rex Richardus quandoq; pro suo commodo singulari, & quandoq, ad prosecutionem aliorum pro corum commodo & utilitate, quosdam Vicecomites stare & remanere permisit & secit in corum officiis continue aliquotiens per biennium, & aliquotiens per triennium, contra tenorem & effectum statuti prædicti, perjurium incurrendo; & hoc est notorium, publicum, & sa-

molum.

19 Item, Licet de statuto, & consuetudine regni fui in convocatione cujuslibet Parliamenti populus fuus in fingulis comitatibus regni debeat este liber ad eligendum & deputandum milites pro hujulmodi comitatibus ad intereffendum Parliamento, & ad exponendum eorum gravamina, & ad prosequendum pro remediis superinde prout eis videretur expedire; tamen præfatus Rex ut in Parliamentis suis liberius consegui valeat suæ temerariæ voluntatis effectum, direxit mandata sua frequentius Vicecomitibus suis, ut certas personas per ipsum Regem nominaras ut milites comitatuum venire faciant ad Parliamenta sua, quos quidem milites eidem Regi faventes inducere poterat, prout frequentius fecit, quandoq; per minas varias, & terrores, & quandog; per munera, ad consentiendum illis quæ regno fuerant præjudicialia & populo quamplurimum onerola; & specialiter ad concedendum eidem Regni lubsidium lanarum ad terminum vitæ suæ, & aliud subsidium ad certos annos, suum populum nimium opprimendo.

20 Item, Idem Rex ut liberius adimplere, & sequi posset in singulis sua arbitrium voluntatis, illicite secit, & mandavit; quod Vicecomites per totum regnum suum, ultra antiquum & solitum juramentum jurarent quod omnibus mandatis suis, sub magno, & privato sigillo suis, ac etiam literis sub signeto suo quotiescunq; eti directa suerint, obedirent, & in casu quo iidem Vicecomites seire poterant aliquos de ballivis suis, cujuscunq; conditionis suerint, aliquod malum

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dicere five loqui publice, vel occulte, quod cedere posfit in dedecus, aut scandalum persona regia, ipsos arestarent vel arestari sacerent, & prisona mancipari, in eadem salvo custodiendos donec aliud à Rege habuerint in mandatis, prout reperiri poterit de recordo. Quod quidem sacum posset verisimiliter tendere ad destructionem quorumcunq ligeotum dicti regni.

21 Item, Idem Rex nitens subpeditare populum sum, & bonasua subtiliter sibi adquirere ut divitiis superssuis habundaret, induci secit populum de xvij. comitatibus regni ad submittendum se Regi tanquam proditores per literas sub sigillis eorum, cujus colore obtinuit magnas summas pecuniarum sibi concedi per clerum & populum comitatuum eorundem pro benevolentia Regis captanda. Et quamvis ad placendum populo idem Rex secerat eis restitui literas illas obligatorias, tamen procuratores ipsius populi habentes plenariam potestatem eis concessam ad obligandum se & hæredes suos dicto Regi, idem Rex secit obligari sibi sub sigillis eorum nomine ejustem populi; sicq; decepit populum suum, & bona corum subtiliter extorquebat ab eis.

22 Item, Quamvis idem Rex in coronatione fua juraverit de servando libertates ecclesia, Anglicana concessas, tamen dictus Rex ratione viagii lui in terram, Hibernia faciendi quampluribus viris religiosis videlicet Abbatibus & Prioribus regni lui per literas ejus districte præcipiendo mandavit, ut corum aliqui certos equos, & aliqui corundem non lolum equos, sed etiam quadrigas five charectas, alioquin magnas pecuniarum summas eidem Regi pro dicto viagio suo transmitterent in eisdem literis expressaras, per quem modum scribendi plures hujulmodi Religiosos metu ductos arravir ad complendum voluntatem & praceptum ipfus Regis, unde graviter depauperati fuerant & oppress in derogationem libertatis ecclesiastica manitestam, Cujus pranextu dictus Rex Ricardus perjurium incurrebar.

22 Items

23 Item, In phatibus magnis Conciliis regiis quando Domini tegni, Justiciarii & alii onerati fuerant ut fideliter consulerent Regi in tangentibus statum suum & regni sui, iidem Domini Justiciarii & alii frequentius in dando consilium juxta discretionem suam suerant per Regem subito & tam acriter increpati & reprobati, quod non essent ausi dicere pro statu Regis &

regni in confiliis luis dandis veritatem.

videlicet bona regni, quæ ab antiquo dimissa sulia jocalia videlicet bona regni, quæ ab antiquo dimissa suerant in archivis regni pro honore Regis & conservatione regnissi in omnem eventum, præsatus Rex exiens regnum suum versus Hiberniam, abstulit & secum deterri secit sine consensu statuum regni, unde regnum illud suisset valde depauperatum nissa de recaptione bonorum hajusmodi contra voluntatem dicti Regis Deus aliter providisset; & præterea rotulus recordorum statum & gubernationem regni sui tangentium prædictus Rex deleri & abradi secit in magnum præjudictum populi & exhæredationem Coronæ regni prædicti, & ut verisimiliter creditur in savorem & sustenationem sui mali regiminis.

as Item, Idem Rex consuevit quasi continue esse adeo variabilis, & dissimilans in verbis, & in scripturis suis, & omnino contrarius sibi ipsi & specialiter in scribendo Papa & Regibus & aliis Dominis extra regnum, & infra ac eriam & aliis subditis ejus, quod quasi nullus vivens habens notitiam sua conditionis hujusmodi poterit aut velit de eo considere, ymmo reputatur adeo insidelis & inconstans, quod cedit ad scandalum non solum persona sua, set etiam totius regni, & potissime apud extrancos totius orbis inde notitiam optissime apud extrancos totius orbis inde notitiam opti-

nentes.

26 Item, Licet terræ & tenementa, bona & catalla cujuscunq; liberi hominis per leges regni ab omnibus retroactis temporibus usitatas capi non debeant nisi suerint sorissacta, nichilominus dictus Rex proponens & satagens leges hujusmodi enervare, in præ-

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fentia quamplurium Dominorum & aliorum de communicate regui frequenter dixit & affirmavit; quod vita cujulcunq; ligei lui ac iplius terræ, tenementa, bona & catalla, funt lua ad ivoluntatem firam absq; aliqua forista cura. Quod est omnino contra leges & consuc-

tudines regni fui fupradicti.

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27 Item, Quamvis statutum fuerit & ordinatum. ac cuam hadenus confirmatum, quod nullus liber homo capiatur, &c. nec quod aliquo modo destruatur. nec quod Rex super eum ibit nec super eum mitter. nifi per legale judicium parium fuorum, vel per legem terræ, tamen de voluntate, mandato & ordinatione disti Regis, quamplures ligeorum fuorum malitiole acculati super eo, quod debuillent aliquid dixisse publice vel occulte quod cedere poteritad viruperium, scandalum seu dedecus persona dicti Regis, fuerant capti & imprilonati, & ducti coram Conftabulario, & Mareichallo Anglia in Curia militari, in qua Curia dicti ligei acculati, ad aliud responsum admitti non poterant, nifi respondendo se in nullo fore culpabiles, & per corum corpora, & non aliter, le justificarent, & defenderent, non obstante quod accusatores, & appellatores corum effent juvenes, fortes & lani, & illi acculati senes & impotentes, mutulati vel infirmi: unde non solum destructio Dominorum & Magnatum regni, fet criam omnium & lingularum personarum communitatis ejusdem regni verisimiliter sequi posset. Cum igitur Rex prædictus hujulmodi regni suistatuto voluntarie contravenerit, non est dubium quin proinde perjurium incurrebat,

28 Item, Quamvis populus regni Anglie vigore ligeanciæ suæ satis plene Regi suo renearur, & altringatur, ipseque Rex populum suum si quovis modo deliquerit, per leges & consuerudioes regni sui corrigere valeat & punire; tamen dictus Rex cupiens suppeditare, ac nimis opprimere populum suum; sur liberius exequi, & sequi valeret suæ ineptæ & illicitæ voluntatis arbitrium, per literas suas ad omnes Comitatus

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regni sui directe indixit etiam & mandavit, ut bgei sui quicunq; tam Spirituales quam Temporales corta juramenta prastarent in genere que eis sucram nimium onetosa, quaque verismiliter causare possent destructionem sinalem populi sui, & quod sub literis & sigillis eorum juramenta hujusmodi reborarent. Cui quidem mandato regio populus regni sui paruit & obedivit, ne ipsius indignationem incurreret aut offensam,

ac etiam meru mortis.

nere Ecclesiasticis & Spiritualibus litigames, prohibitiones regias ad impediendum processim legitimum in cisdem à Cancellario. Asglia impetrare laboratient, & idem Cancellarius ex justita ad hoc rescribere recusasses; idem tamen Rex per literas sub signeto suo judicibus ecclesiasticis hujusmodi frequenter districte prohibuitane in causis hujusmodi procederent, libertates ecclesiasticas in magna carta approbacas ad quas conservandas juratus extiterat, nequiter instringendo, perjurium & sententiam excommunicationis contra hujusmodi violatores à sanctis Patribus latam, dampnabiliter incurrendo.

30 Icm, Dicus Rex Dominum Thoman de Amadell Archiepiscopum Cancastensom, totius Inglia Primatem, patrem fuum Spiritualem, in Parliamento suo viris armatis hostili more vallato tune de callido Consilio dicti Regis se abtentantem, absq. causa rationabili, seu legitima quacunq; seu alio juris processu, contra leges regui sui per ipsum ut præsertur juraras, in

exilium perpetuum adjudicavit...

Ja Liem, Per inspectionem reframenci disti Regis sub magno se privato figillis suis se figneto figuati, insercerera continetur baccelansula, sive articulus ITEM volumus quod auri nostri refiduum, folutis tamen nostrorum hospicii, camera, se gardesoba veris debitis, ad que persolvenda legamus viginti milia librarum, refervatis, executoribus nostris quinque vet sex milibus marcatum, quas pro uberiori sustenzationa leproto-

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rum ac capellanorum coram eis celebraturorum per nos apud Weft monaft. & Bermonbetepe ordinatorum. volumus per dictos executores nostros expendi, nostro remaneat fucceffori, dam ramen omnia & fingula ftatuta ordinationes, stabilimenta & judicia in Parliamento nostro decimo septimo die Mensis Septembr. 1 anno Regni viccimio primo apud Westmenast. inchoato, & in codem Parliamento vique Salopiam continuato & ibidem tento, facta, lata & reddita, necnon omnia ordinationes & judicia ac ftabilimenta decimo fexto die Septembr. anno regni vicelimo fecundo apud Coventriam postmodum apud Westmon; decimo octavo die Marcii anno prædicto, auctoritate ejufdem Parliamenti facta, habita & reddita, ac etiam omnia alia ordinationes & judicia qua autoritate ejuldem parliamenti in futurum contigerit fieri, approbet, ratificet, & confirmet, teneat, & reneri faciat, ac firmiter observer; alioquin si prædictus fuccessor noster præmista facere nolucrit, vel recufaverit, quod non credimus, volumus quod Thomas Dux Survie, Edwardin Dux Danmarle, Johannes Dux Exonia & Willielman Leferen Comes Willeshira, Colucis prius debitis nostrorum hospitis, camera, se garderobæ, refervatis quinque vel fex milibus marcarum ur fupra pro hujufmodi ttatutorum, stabilimentorum, ordinationum, & judiciorum fultentatione, & defensione, lecundum eorum posse, etiam usque ad mortem si oporteat, reliduum habeant & teneant memoratum; fuper quibus omnibus & fingulis eorum confcientias prout in die judicii respondere voluerint oneramus. Per quem quidem articulum fatis constare poterit eyidenter, quod idem Rex illa flatura, & ordinationes. quæ sum erronea, & miqua, & omni juri & rationi reprignantia pertinaciter manutenere, 32 defendere nitebarur inon cam in vita quam in morte, nec de anima fuz periculo, nec de dictiregni fui, feu ligeorum fuorum ultima destructione curando.

32 Icem, Anno undecimo dicti Regis Riebardi, idem Rex in capella manerii ini de Langlep, in præ-L11 2 fenria

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fentia Ducum Lancestrie & Eberum, ac alioquirquamplurium Dominorum personaliter constitutus, cupiens, ut apparuit, ut ejus avunculus Dux Glusestrie
tune ibidem præsens de ipsus Regis beneplacito plene
considerer ad venerabile corporis Dominici Sacramentum ibidem super altate repositum sua sponte juravit,
quodeidem Duci Gloneestrie pro aliquibus sacris ejus
quæ contra personam ipsus Regis dicebantur esse
commissa nunquam extunc inferret dampnum aliquod
vel gravamen, set omnem ossensam illius, si qua sucrat, hillariter, & ex integro sibi remiss. Postea tamen
juramento hujusmodi non obstante, dictus Rex præsatum Ducem pro sic prætensis ossensis horribiliter &
crudeliter murdrari secit, reatum perjuris dampnabili-

rer incurrendo.

33 Item, Postquam unus de militibus Comitatuum dien regnis vocem habeus corum in Parliamento, di-Etum Dominum Thomam Archiepiscopum Camuariensem super certis descelibus contra regiam majestatem. ut minus veraciter, afterebatur commissis, impetit publice coram Rege & omnibus fratibus regni, Quamquam idem Archiepilcopus statim tunc ibidem optulit le paratum ad respondendum hujusmodi sibi impoficis, & ad hoc petierit le admitti per Regem, fatis plene confilus, ut dixit, le posse suam in ea parte innocentiam declarare, idem tamen Rex machinans viis & modis quibus poterat eundem Archiepiscopum Cananariensem opprimere & in nichilum redigere statum ejus, prout tandem rei exitus declaravit, benigne ac hillari vultu Archiepiscopum alloquens in sede sua regalf, confuluit & attente rogavit eundem Archiepiscopum, quod illa vice tacetet, tempus ad hoc magis aprum & congruum expectando : Quo die laplo de die indiem bene per quinque dies & amphus Rex præfasus iplum Archiepiscopum fraudulenter & dolose decepit, consulens & suadens quod non veniret ad Parliamentum, set apud hospitium suum intrepidus expectaret, quoniam, ut idem Rex fideliter fibi promisit, in iphus n-

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iplius Archiepiscopi abtentia nullum sibi deberet inferri dispendium vel gravamen: Veruntamen distus Rex in luo Parliamento prædicto iplum Archiepiscopum ut præfertur ablentem, ac ad responsum suum nullo modo vocatum, abique quacunque caufa rationabili adjudicavit in exilium, ad iplius Regis beneplacitum duraturum, omnia bona fua contra leges regni ac omnem justiciam voluntarie confiscando, cujus prætextu perjurium incurrebat. Volens præterea dictus Rextuam in ea parte vertutiam palliare, per ipfius blanda colloquia cum dicto Archiepiscopo frequentius habita, tantam fibi illatam injuriam a se prorsus excutere nirebatur, & ad aliorum facta transferre; unde dictus Archiepiscopus habens cum eodem Rege & cum Duce Norfolcia, & aliis Dominis & magnatibus dicti regni colloquium, dixit aliqualiter lamentando, quod iple non erat primus qui exilium pertulit, nec erit novissimus, quia purabat quod infra breve distus Dux Norfoleia & alii Domini ipfum Archiepifcopum fequerentur; & constanter afferuit dicto Regi quod omnium præmissorum asperitas in caput ipsius Regis debeat finaliter retorqueri; Ad quod idem Rex vultu demisso ach inde fuisset attonitus, incontinenti refpondir, quod bene putabat illud accidere posse; quodque per ligeos suos à regno suo deberet expelli; Et ulterius dixit idem Rex, quod si illud forsan acciderit, vellet ad locum ubi idem Archiepiscopus fuerit se conferre: Et ut dietus Archiepiscopus huic assertioni fidem adhiberet in dubiam, oftendit idem Rex Archiepiscopo memorato quoddam magnum auri monile juxta fimbriam tunicæ disti Regis fubrus vestem enis exteriorem miro modo firmatum, intimans cidem Archiepilcopo pro constanti, quod cum illud monile fibi pro interfigno transmitterer, non differret illue venire ubi dictus Archiepilcopus moraretur; Et ut idem Archiepilcopus majorem haberet materiam confidendi in co, mise ipleRex præsato Archiepiscopo, consulens fibi quod omnia jocalia fua & alia ad Capellam fuam L11 3. ipectanSpectantia dicto Regi lecrete transmitteret pro falva custodia corundem, ne colore dicti judicii super ipui exilio redditi quisquam ad bona prædicta manus injuriofas apponeret Quo fub maxima confidentia facto, przefarus Rex bona hujusmodi visa por eum in quibuldam coffris reponi fecit, & coffras illas terari, ac per unum de clericis ipfius Archiepiscopi sigillari, Retentisque penes illum hujusmodi costris, claves carum per eundem clerieum Archiepiscopo memorato remilit: Et postmodum coffeas illas dicto Archiepiscopo hoc penitus ignorante trangi mandavit, & de bonis hujusmodi mox disposuir pro suz libito voluntatis. Promissir etiam idem Rex sideliter dicto Archiepiscopo, qued si pararet se ad portum de Bampton ut regnum exirer, falrem interceffione Regina protimis revocaret eundem. Et froontigerit ipfum Archiepiscopum regnum exire, citra Pascha proximo extune sequens sine falso rediret in Angliam, neque hum Archiepiscopum amitteret ullo modo; & hoc fideliter promifit jurando Super crucem dudum sancti Thoma Martyris Cantuariensis Archiepiscopi per iplum Regem corporaliter rastam. Quibus promiffionibus non obstantibus, idem Rex dictum Archiepiscopum regnum exire coegit, & statim ad sedem Apostolicam pro ipsius translatione transmist literas speciales, sieque & alias per traudes & dolofitates dictiRegiserat idem Archiepiscopus ut homo bonze fidei callide circumventus.

Er quoniam videbatur omnibus statibus Regni superiode singillatim ac eciam communiter interrogatis, quod illa causa criminum & desectuum erant satis susficientes & notoriae ad deponendum cundem Regem, attenta eciam sua consessione su cessione contentia & aliis in deta renuncianione & cessione contentis patenter emissa, omnes status pradicti unanimiter consenserum, ut ex habundanti ad depositionem dicti Regis procedererum pro majori securitate se tranquillitate populi ac regni commodo saciendam, unde status & communitates pradicti cerros Commissarios, videlicet

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Episcopum Afav, Abbatem Glaffonia, Comitem Glonceftries Dominum de Berkeley, Thomam Eryjngbam & Thomam Grey Milices, & Willielmum Thirning Justiciarium, unanimiter & concorditer constituerunt & deputatuar publice tune ibidem, ad ferendum fententiam depositionis hujusmodi, & ad deponendam eundem Richardam Regem ab omni dignitate, majellate & honore regis, vice, nomine & authoritate omnium fatuum prædictorum; prout in confimilibus calibus de antiqua confuerudine dicti regni fuerar observarum. Ec mox iidem Commissarii onus Commissionis hujusmodi in se assumentes & ante dictam sedem regalem pro tribunali sedentes, prahabita super bus deliberatione aliquali, hujulmodi depolitionis lementiam in Icriptis redactam vice nomine & auctoritate prædictis tulerunt. & per dictum Episcopum Affaver, Commissarium & Collegam fuum candem lententiam de ipforum Commiffariorum voluntate & mandato legi & recitari fecerunt, in hace verba-

IN DEI NOMINE, Amen. Nos Johannes Episcopus Aslavens, Johannes Abbas Glastonias, Thomas Comes Gloucestriae, Thomas Dominus de Berkely, Thomas de Erpyngham, & Thomas Gray militer, at Willielmus Thyring Justiciarius, per Pares-& Proceres regni Anglia, Spirituales & Temperales, & ejufdem regni Communitates, amnes fratus einfdem regni reprasentantes, Commissarii ad infrascripta Specialiter deputati, pro Tribunali fedentes, attentu perjurise multiplicibus ac cendelitate alsifq; quamplaribus criminibus dicti Richardicuca regimen fume en reguie & dominio supradidis pro tempore fai regiminis commiffie & perpetratie. ac coram abitis it aribus palam of publice propositio exhibitu. O recipatio, que ades fuerante de funt publica, notoria, menifesta & famosaquod unlla poterant ant posint tergiverfatione celari, Necmon confossione praditti Richardi recognistrensia de ropusantin, at veraciter ex certa feituria fungualisantie fo fuiffe & offe infufficientem pentine, & matilem ad regimen & gubernationen regnorum & densi-

nil predittorum de pertinontium corandam, ac propter (na demerica necoria non immerico depenendamo, per ip (um Richardum prim emiffa, ac de volumate de mandato fuis coram dill u flatibu publicara, cifq: werificata & expolita in unleavi grahabita super bite amnibat in ipfo negotio attitatis coram fratibus antiditis & mobis delibera. tione dille enti price nomine & autteritate mobisin bac parite commi ffa, ipfum Richardum ox habundanti, G ad cantelum ad regimen & gubernationen diBarum regnorum & dominit juriumq; & partinentinm cornndem fuiffe & effe imitilens, inbabilem, infu ficientem peniten & indignum fac proprer pramifa & cornu pretextu ab onen dignirate of homore regues, & quid dignitude to banonie hujufmodi in se remanferit, merite deponendam pronunciamus, decernimus of declaramus, dripfam fimili causela depominus per naft ram diffinitivam fententiam in bis feriptis. Omnibus & fingulu Dominis Archiepifcopis, Epifcopis & Prelatts, Ducibus, Marchionibus, Comitibus, Baronibus, Militsbus, Vaffallis & Valvafforibus, ac ceseris bominibus dictorum requorum & dominit, as aliorum locorum ad ditt aregna & daminiam Spettantium Subditis ac Ligeis fuis quibufounque inbibentes expresses ne qui quam ipforum de catere prafate Richardo, nanguam Regi vel Domino regnorum aut dominii predictorum paret quomodoliber wel intendate

Volentes autem præterea dicti status ut nichil destr quod valear aut debeat circa præmissa requiri, superinde singillatim interrogati, personas easdem prius per Commissarios nominatos constituerunt. Produratores superconjunctim se divissim ad resignandum se reddendum dicto Regi Richarda homagium se sidelitatem prins sibi facta, se ad præmissa omnia hujusmodi deposicionem se renunciationem tangentia, si oportuerit, intimanda.

ETA CONFESTIM ut conflabat ex pramifis & corum occasione regnum Auglia cum fuis pertinentiis vacare, prasfatus Hanrieus Dux Lancastria de loco ino furgens, & flam adeo crectus quod faris intucri

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posser à populo, se muniens se humiliter signo crucis in fronte se in pectore suo, Christi nomine primitus invocato, dichim regnum Anglia sie ut pramititor vacats, una cum Corona ac umilius membris se perunchtis suis vindicavit in lingua materna, sub hac sorma verborum.

In the name of Kader, Donne and boly Ghoft; I Henry of Lancastre chalenge this Metome of Ynglonde and the Croune, with all the membres and the commentaries, als I that am descendit be ryght lyne of the commentaries that am descendit be ryght lyne of the commentaries that God of his grace bath sent mee, with being of my hyn, and of my frendes to recover the the whiche Metome boas in poynt to be ondone for desaut of goder.

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Post quam quidem vindicationem & clameum, tam Domini Spiriuales quam Temporales, & omnes status ibidem præfentes fingillatim & communiter interrogatt quid de illa vindicatione & clameo fentiebant? ildem status cum toto populo absque quacung: difficultate vel mora, ut Dux præfatus super cos reguarer, unammiter confenierunt. Et fratim ut idem Rex oftendit flatibus regni fignetum Ricardi Regis fibi pro interfigno traditum fuz voluntatis, ut præmittime, expreffivum, prefatus Archiepiscopus dicum Henrichies Regem per manum dextram apprehendens, duxit eum ad sedem regalem prædictam: Er postquam idem Rex coram dicta lede genu flexus parumper oraffer, idem Archiepiscopus Canenariensis, affistente fibi Archiepiscopo Eberum prædido, dichum Regem politic & federe lecit in sede regali prædicta, popula præ nimio gaudio fortiter applaudente; Et mox diches Archiepilcopus Cantuarienfis, vix facto filentio propter gaudium omnium circumstantium, collationem modicam fecit & protulit, in hæc verba. a the state of the personal tent. The

VIR DOMINABITUR POPULO, Reg. ix. c. Has sunt verba summi Regin loquemis ad Samuelem, & docentis enndem qualem deberge institut-

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re ad enbernandum populum, quando prochat fibi dari Regem populus ille, & non ineprade Domina nostro Rege moderno dici poffunt: qua verba fi intime confiderement prabent nobis materiam magne confolationis. Non enim Deus nobis comminatur ficus quondam per Y fai. comminabatur populo dicens, Ylai. 3. Dabo pueros Principes corum, fet ex fua mifericordia, qui sum irafcitur mifericordie recordatur, visitavit plebem fuem, & non mode, ut iaregno, pueri dominabuntur, fet dieit domiuns voble, de Vir dominabitur populo. Poserat enime de Rectoribus ifins regni five corum quolibes prascritis in per sona parvuli non inconvenienter dici illud Apostoli. Cor. 13. Cum essem parvulus loquebar ut parvulus. fapicham ut parvulus, cogitabam ut parvulus : ecce, ter dicit Apostolus, loquebatur ne parvulus, saprebat, & cogitabat. Quantum ad loquelam, certum eft quod parvulus inconftans est in loquendo, faciliter vera loquitur, faciliter falla, faciliter werbe promittit, fet quod promittit cito obliv! (citur; bac enim unt inconvenientia & mimis moleferegno, net poffibile eft regnum feliciter frare ubi he conditiones requant; fot abiffis defections liberatur regnum cam vir dominatur, ad virum namq; pertinet circa linguam fervare cu fodiam. Mode autem non puer dominatur fet vir, do que spero dies potest illud Eccl. ix. Beatus vir qui non est lapsus in lingua. Post inquit Apostolm, Capiebam ut parvulus, parvulus enim non fapit nifi placentia & adulatoria, arquentem fecundum veritatem non diligit, jmmo odit supra modum. Quondam autem veritas fuerat subpeditata ut unles anderet legui; fatis constat, o per boc patet anod ille qui regnabat sapiebat us parunlu, vir enim non sapit talia, set sapientiam, unde per Dei gratiam diei poterit de ifto viro qued scribitur Eccl. ix. Beatus vir qui in sapientia morabitur; sient enim puer diligit vanitatem, ita vir fapit veritatem & fapientiam; veritas ergo intrabit, adulatio recedat, que tot mala in reqno nostro fecerunt, quia vir dominabitur populo, qui veritatem sapit, non qui vanitatem vel adulationem. Tertiodicitur, Cogitabam ut parvulus, parvulus enim folum

felum frudet facere emnia voluntarie nen ex ratione, cum igitur puer reguat voluntas foloregnat, ratio enulat; ubi vero volunt a requat & ratio receffit, confrantia fugata eff, & it a imminet mag num periculum; ab ifto periculo liberati fumus, quia vir dominabitut, ille feilicet qui dieit non ficut pareulus fet ficut ratione perfectus, Non veni tacere voluntateni meam, serejus qui misit me, seilien Dei: & idea de viro isto non solum dicemus qued in sapientiamorabitur, fet eciam ut vir & non nt puer in feufu cogitabit circumfpectionem Dei, ideft circumquaque diligenter aspicit ut Des voluntas non sua fiat, & ita loco pueri voluntarie la evientis, vir modo dominabitur in populo, O ife vir oft talis qued dicetur, Regnabit Ren & Capiens erit, & faciet judicium & justitium interna.

Qua collatione completa, dictus Dominus Rex Henriens ad ponendum fuorum fubditorum animos in qui-

cte, dixit publice tunc ibidem hæc verba.

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Sires, I thank God and powe Spirituel and Tomporel, and all the effates of the Lond, and no powe to wate, it en noght my will that no man thenk that be wope of Nors. conquest 3 wold offertt any man of his bertiage, franches of other regists that hem aght to babe, to put him out of that that he has, and has had by the gude Lawes and Customes of the Rewmer Ercept thos perfens that has been agan the gude purpole, and the common profit of the Melome.

Et protinus hoc attento quod per prius vacante sede regali per ceffionem & depositionem prædictas cellavit omnis potestas quorumcung; Justiciariorum, Vicecomitum, & aliorium Officiariorum ubiq; per regnum, ne exhibitio jultitiæ in gravamen populi "dilationis incommodo subjaceret, suos officiarios principales ac eciam Justiciarios deputavit ibidem juramento confuero Regi præstito per fingulos eorundem. Et fuit ilico de dicti Regis mandato publice proclamatum ibidem, quod die Lunæ proximo post festum sancti Michaelis, Parliamentum ibidem teneri & celebrari deberet; quodq; die Lunæ proximo extunc sequence, vide-

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liest in festo fandii Edwardi, Coronario dicti Regis ficret and Westmonasterium, Sc mod onnes illi qui vendicare volucriat angued fervirium foin dies Coronatione facturos, se eo prætextu aliquid fibi deberi, venirent ad Albam aulam palacii coram Senefcallo Constabulatio & Marescallo Anglia, die Sabbari proximo ante diem Parliamenti pradicti, quod in ea parte justum fuerit petituri, quibus plena justicia fierit in petitis. Quantum autem adabbreviationem allignationis diel Parliamenti pradicti, fuerat pro parte dicti Regis proteffatio talisfacta, videlicer quod non crat intentionis luz ut fratibus regni fui prajudicium afferatur exinde, nec quod hoc trahatur de cattero in exemplum, quinymmo quod abbreviatio illa fiebat tantemmodo pro commodo & utilitate regni, & specialiter ut quorumcunque ligeorum fuorum parcatur laboribus & expensis, quodque super gravaminibus populi celere poffit remedium adhiberi.

Quibus omnibus fie peradis. Rex defede fua regali furgens, & populum vultu hillari & benigno refpiciens, abinde populo congaudente receffit, & in Alba aula pradicta convivium regni Proceribus ac generofis illue in multitudine maxima congregatis codem die folemp-

niffime celebravit.

ET POSTMODUM die Mercurii proximo extunc lequente dicti Procutatores ut pramittitur deputati, ad præsentiam dicti Richardi nuper Regis infra dictam Turrim existentis, prout els injunctum surrat, accesserum, se prasaus Dominus Wilielmas Thirning Justiciarius, pro se se dictis sociis se comprocuratoribus suis nomine omnium statuum, se populi prædictorum admissionem dicta renunciationis, ac modum, causam se formam sententia depositionis hujusmodi eidem Ricardo notificavit, ac plenius declaravit; se statim stormagium se sidelitatem eidem Ricardo nuper Regiut præmittitur sacta, resignavit se reddidis, sub hiis verbis.

Les paroles que William Thirnyng parla a monfire Ri-

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chard nadgaires Riov & Englance on hole Toure de Loudner, en la Chambre, le Meigerdy procheyn apres le fest de Seint Misbell Jarchaunchel, fenfuent. CIRE : It is well knowe to polic; that ther mas a Parlement fomond at all the Dinten of the Meaune las to be at Weltmynftre, and to beggine on the Eucloap in themogneof the felt of Grint Michell the Achaungell that was petterbay, by caute of the whiche Commons all the ditates of this tond were there gadpid, the white Dtates bele mave thea fame perfonen that, ben comen bere to powe now ber Procuratours, and gafen bem full autto. gite and pateer, and charged bem forto far the toogtes that we fall fap to powe in ber nine, and anthair behalbe; that is to motten, the Bylshop of Beint Affi for Cri bi happes and Bifformes: the Abbot of Glaftenbury fer Abbats and Prours, and all other men of bolp Chirche Deculers and Reinetern, the Erle of Gloucestre for Dubes and Gries, the Lago of Berkeley for Barones and Burnetettes, Str Thomas Irpyngham Chambertern for all the Bachilers and Commons of this Land be fouth, Dire Thomas Grey for all the Barbilers and Commons by nozib, and my Selame Johan Markham and me for to come topid bem for all thes Bearen; and fo Specifies to thes and the doping that the fall far to point, is not only boar wortes, but the water and the hornges of all the States of this Lond, and our charge, and in her name. And be aufweren and taid, that he most becke that we wold night fay, but as we were charged. Mire, pe remembre potte me le that an Manetay in the feft of Deint Michell the Archaungett roghe bere in this Chambre, and in inhat prefence pe cenounted and celled: of the frate of mong and of Lozvellbip, and of aftithe Wige nite and Graffing that longed thereto, and afforless all Pour Leiges of her lineance and obelfance, that lorred to palos uppe the fourme that is contened in the fame Menunctation and Ciffion, whiche pe redde pour left by pour mouth, and affermed it by your othe, and by your other writing: upon whiche pe made and ordernes pour Procu-Mmm 3 ratours.

ratours, the Gelbellbopp of York, and the Biffbopp of Hereford, for to motifie and ovelare in your name thes Kenimciation and Cellion at Wellmynitre, to all the States, and all the people that loss ther gabped, because of the Sommons Tazefapo, the whiche thus bon pefferbap by thes Lugues pour Procuratours, and wele berde and underftonven, thes Kenunciation and Ceffion ware pleinelich and frelich accepted, and fullich agreed by all the States and people ferlapt. And ober this Dire, at the Inflance of all thes States and people, ther ware certein Acticles of befauts in your gobernance redde there, and tho wele bery and plemelich understanden to all the States festago, bemithoght bem fo freme and fo notogie, and knower that by the caules, and as by mo other as thei lapb, and habeng confideration to your owne toogdes 'in your own Kenunciation and Cellion, that pe were not weathp, ne lufficient, ne able for to gobern for pour obme Demerites, as it is more pleinerlin contened therin, bem thought that mos reasonable and cause for to bepose poine and her Commiffaries that thet made and ordeined, as it is of record ther declared and decreed, and adjudged poine far to be deposed and pribes, and in bade deposed potoe, and pephed pome of the affate of a png, and of the Lozofibip contened in the Kenunciation and Ceffion forlago, and of all the Dignite and mertipip, and of all the aoministration that longed thereto. And the Procurateurs to all thefe tates and people fortago, as the be charged by bem. and by her autorite giffen us, and in het name, pelbe potre uppe fog all the blates and people forfapo, 190mage, Liege and Featte, and all Ligeance, and all other Bendes; Charges and Derbices that longe therto; and that non of all thes brates and people fro this tyme forward, ne bere powe feeth, ne do powe obeilance os to that Bing. And be antwered and fapt, that be teebed not therafter: but be lapte, that after all this be hopen that is Colpn toolde bee good Lord to ben. ser or a control of the control

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Joefdy le wwiiij. Dotteber Leroonefg; de Canterbire chargea deper le Roy toux les Seigneurs Effirituales & temporales & toutz autres yest autz fur Leur Ligeance que eto que lors ferroit monstres ou parlez illorge serroit tenne confeil & gil ne ferroit afcamement discoveren anully vivant. Et pin apres demander feuft por le Count de Northumbr, pur la seurte du Roy & de tonz Lestatz du Roialme, Coment leure semble que serroit erdeignez de Richard nadgaires Roy pur Luy mettre & faufegard, Sauvant fa vie, quele le Ray voet que luy foit fanvez & tonz maners? Surquei responduz feust per toutz Les Signiers severalment examines done les nomes si ensuent que leur semble gil ferroit my sen fauford fecregard & entiel Lieu on mulconcours des gente yad & gil foit garden per foures & sufficient z per sone, & que nul que efte familler du dit nadgairs Rey foit ascunement entour fa perfane co que ceo foit fait en le pluis fecre mamere que faire fa purra.

Les nomes des Seigneurs demandez er affentez en La

question suisdite cy enfuent Cestassavoir.

Lercenela; Denerwyck.

Leuelg; de Londres. Leuelg; Dely. Leuela: de Nicholl.

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Leucique Norwich. Leuelg; de Roucestre.

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Leuelq; de St. Davids. Leucig; de Landate.

Leuelg; de Dureime. Labbe de Westminster. Labbe de St. Albon.

Labbe de St. Austyn. Labbe de Bury.

Lerceuelg, de Canterbrie. | Labbe de St. Doverwycke.

Labbe de Glocestr. Labbe de Battaill.

Le Prince.

Le Duc de Nerwyck.

Le Count Darundell. Le Count de Warr.

Le Count de Staff.

Le Count de Northumbre

Le Count de Suff.

Le Count de Wircestr.

Le Sgr. de Roos

Le Sgr.de Grey de Ruthin.

Le Sgr. de Cherleton. Le Sgr. de Bardolf.

LeSgr. de Willughby.

Le Sgr. de Furnival. Le Sgr. de Ferrers.

Le Sgr.de Beaumont.

De faufement Nadgairs Rey.

Le Sgr. de Berkeley.
Le Sgr. de Fitz Wauter &
Le Sgr. de Manley.
Le Sgr. de Morley.
Le Sgr. de Morley.
Le Sgr. de Barnell,
Le Sgr. de Lovell,
Le Sgr. de Camoi.
Le Sgr. de Combwell.
Le Sgr. de Cobbam.

Monfr, Henr. Peircy.
Monfr. Richard Scroop,
Le Sgr. Fitz Hugh,
Le Sgr. de Bergeueny.
Le Sgr. de Lomiey.
Le Baron de Greystocks,
Le Baron de Hilton.
Monfr. Thomas Erpingham Chambr.
Monfr. Mayhew Gowinay.

*Walfingham.
Hift. Angl.'
Anno 1490. P.
404. Grafiens
Chronisc. P.
407. 408. 409.
Halinfied. P.
511. Sect. 4. P.
516. Speed. P.
764, 765. God-wins Catalogue of
Bithops, P.
541, 541.

Mr. Hall inhis Chronicle, fol, 10, and others relate, that in this Parliament, when it was demanded by the Kings friends, what should be done with King Richard? Thomas Merkes Bishop of Cardile, which was a man both well learned and well fromacked, role up and faid: My Lords, I require you take heed what answer you make to this question. For think there is none of you worthy or meet to give judgement on fo noble a Prince as King Richard is, whom we haven taken for our Sovereigne and Liege Lord by the space of two and twenty years; and I affire you, there is not fo ranck a traitour, nor lo arrant a theef, nor lo cruel a murdeter, which is apprehended and deteined in prilon for his offence, but hee shall be brought before the Juflice to hear his judgement; and yet you will proceed to the judgement of an annointed King, and hear neishor his answer nor excuse. And I say, that the Duke of Lancaffer, whom you call King, hath more offended, and more trespassed to King Richard and this Realme, than the King hath either done to him, or to us. For it is manifeftly known, that the Duke was banished the Realme by King Richlard and his council; and by the judgement of his own Father, for the space of ten years, for what cause all you know, and yet without licence of King Riebard hee is returned again into the Realme; yea and that is worfe, hath taken upon him the name, title, and preheminence of King. And there-

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therefore I (ay and affirm, that you do apparently wrong, and manifest injury to proceed in any thing against King Richard, without calling him openly to his answer and defence. When the Bishop had ended, he was incontinent by the EarlMarshal attached and committed to ward in the Abbey of S. A banes. And then it was concluded, that King Richard should continue in a large prison, and should be plentifully served of all things necessary both for viands & apparel.

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And crcFrom the proceedings against these 2. depoled Kings,

thele 2. inferences have been made.

1. (g) That the Commons have a joyus interest with the Posthuma, p.

Lords in the Judicature and Jugements in Parliament.

(b) Regal

2. (b) That the Proceedings against our late condimined Tyranny dis-

I answer, that nei her of these 2. Consequences are 59, 60. John proved by them. For 1. The Commons themselves in Metion Anthis Parliament of 1 H. 4. n. 79. immediately after King massus, Mr. R chards deposition, consels, That the Judicainte and Bradshaw & Judgements of Parliament, belong only to the Bing and others.

Lozdes, not to the Commons. This The Commons neither in nor out of Parliament, are, may or ought to be the Judges of the meanest Lord or Peer of the Realm, who are to be judged, tried by their Peers alone; as I have abundantly evidenced in the previses: Much less then can they be lawful Judges of their Soveraign Lord and King, who is a degree above all the Peers of highest dignity. In the Parliament, An, 1260. Prince Edward, as I have Mar. Paris, proved before, would be tried only by 2. Kings; because P. 295 296. all the rest of the Earls and Barons were not his Peers, Here, p. 256. neither could they be his Judges: much less then can Peers or Commons be their Kings Judges & Peers to ondemn or try him. 3ly, Our Lew-books resolve, (i) That (i) Bracton, the King hath no Peers in his own Realm; and, Therefore he lib, r. c. 8, can neither be legally tried nor judged by the Peers themselves, lib. 3, cap. 3,

cap. 4. 3 Edw. 3. 19. Fitz. Corone 1617 21 Edw. 3. 3. b. Dyer 297. Stamford, lib. 3. cap. 1. f. 173.

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(k) Spelman-much less by the Commons in Parliament. 4ly, The (k) ni Concilia, Lawes of Hoel Dha King of Wales, about the year 940. Tom. 1. p. 411 Lex 20. terolve, Rex non poterit secundam legem in lite Sta.

re coram Judice suo, agenco vel respondendo, per dignitatem naturalem; yea all the Lords and Commons of England in the Parliament of Lincoln, Anno 29 E. I. in their forecited Letter to the Pope (p. 128.) resolve, That the Kings of England, Ex praeminentia status sue Regia dignitatis, ex consuetudine cuntis temporibus observata, neque responderunt. neque respondere debebant cojam aliquo Judice Occlest. altico bel feculart super juribus suis in regno, &c. Much lefs then may or ought they to be put to answer criminal. ly for their lives, or Crowns before any Ecclefiastical or Temporal Judge, Peers or Commons House, or High Court of COMMONS. 5/4, The Statutes of 16 R. 2.c.5. and of 25 H. 8. c. 19. 21. thus declare, refolve, and the Archbishop of Canterbury in the Parliament of 16 R. 2. p. 20. protetted against the Popes pretended Supremacy, That the Crown of England hath been so free at all times, that it hashbeen in subjection to no Realm or Perfon; but immediat ly (nhielt to God. and to none other, in all things touching the Regality of the fato Crown, And the Statutes of 25 H. 8.c. 19, 21, 22. 26 H. 8 c. 1. 3. 27 H. 8. c. 15. 28 H. 8. c. 7. 10. 31 H. 8. c. 10. 15. 32 H. 8. c. 22. 14. 26. 33 H. 8.c. 29. 35 H. 8.c. 1. 3. 17, 19. 37 H. 8.c. 17. 1 E. 6. c. 2. Y Eliz. c. 1. 8 Eliz. c. 1. 3 7ac. c. 3, 4. declare and enact, The King to be the only Supreme Dead Cobernoz (upon Earth) both of the Church & Realm of Engl. both of which recognize no Super or under God, but only the Bing. To affirm then, that the Lords or Commons in Parliament may lawfully judge, depose the King and deprive him of his Crown, Regalities, Head, Life: is to contradict , repeal all the e Statutes : fince the inferior Members can no more legally judge the Supreme head of the body politick, than the head of the body natural; or the Cours in Westminster hall, or Hundred Courts judge the High Court of Parliament, and condemn, regeal their Acts or Judgements. 6ly, Though Articles were drawn

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drawn up against these two Kings proforma, yet neither of them was ever required, or judicially fummoned to make answer to them, or heard, or brought to trial before the Lords or Commons Barr, or any other Tribunal, or Court of Justice. Whence the Bishop of Carlifle pro . Here,p.456. tested against it, as most illegal, unjust and trasterous. Therefore neither the Lords nor Commons could be properly faid their ludges in this case; and their Judgement without hearing or trial of them must needs be most er-10010115, as well as Morimers and the Earl of Arundels . Here, p. 275. * forecited. 7ly, The Lords and Commons relignation to 283. of their Homage to these 2. Kings, when deposed; shew, † Homage being the most honourable and humble fervice that Clanvil, 1.9: that even then they elie. me I them their Superiors & Lords: a franktenant may do to his Lord: the tenant being ungirt, his I. bead uncovered, eeeling down on both his knees before his Lord Instit. f. 64, fixing covered and holding up his kands joyntly together between 65. his Lords and the Kings hands, when he doth his homage; faying. I become your man from this day forward of limb and of earthly wor hip, and unto you shall be true and faithfull, and bear faith for the tenements I hold of you. And when done to any other Lord, it is with a sabing the faith 3 olue unto our Soveraign Lozd the King, and his Heirs. 8ly, The Sentences of Deposition against them, were given only by the Legislative power, not JUDICIAL, by way of Bill consented unto in the Parliament house by the Lords and Commons, then fent to thele Kings to their prisons, and there read unto them by Committees and Proxies, representing all the Estates in Parliament. Therefore the reading of them to these Kings in their prisons, was not properly a judgement, neither did it conflictute them who read it to them their Judges, much less create the Commons Judges of these Kings. 9.y, All the Lords Spiritual Tem; oral, and Commons concurred joyntly in this Act of refigning their Homage to these Kings, to whom they were all joyntly obliged, and in whom they had all a common interest: Et quod tangit omnes, ab omnibus debet approbari: Therefore it is no warrant for the proceedings a-Mmm2

gainst our late King, without the confents, and against the Express Votes of the whole House of Lords, and of the Majority of the Commons house. 10ly, The Lords alone, without the Commons, gave Judgement for the close and perpetual imprisonment of King Richard the 2. therefore they were his fole and proper Judges by way of Sentence, his deposition being by the Legislative, not Judicial power. Inly, These Kings (especially the later of them) had no fentence of deposition, nor proceedings against them, til they had through fear or publianimity first refigned their Crowns, and kingship, as unfit to reign or govern any longer; which was made the principal ground of their inblequent declaratory depositions, by the Lords and Commons, when they had reduced themfelves into the † Si Rex im- condition of † private men, by their resignations. These preperium abdi- fidents therefore cannot justifie the late proceedings a-

nifeste habet i gainst an actual, lawful, hereditary King, by a small party pro derelico, of the Commons house alone, without the House of Peers, in eum post id or the Majority of their fellow-Members, who never retempus omnia figned his Crown, nor unkinged himfelf, as unworthy to licent quæ in reign any longer. privatum, Hugo Grotius, his depolition, was reputed a King de jure ftill; and therec. 4. Sect. 9.

de Jure Bellifore filed by the whole Parliament, all the Lords & Pacis, I. 1. and King Edward the 3d. himself, in 4 E. 3. n. 1, 2, 3, 4, 5, 6, 10. their | Ming and Leige-Lozd, and Mortimer, See here, p, with his complices, were condemned and executed as

TRAYTORS, for murdering him after his Deposing: contrary to Sir Edward Cocks falle Doctrine, 3 Institutes, f. 7. And in the Parliament of 21 R. 2. n. 64, 65. the revocation of the Act for the 2. Spencers rellimition in the Parl. of 1 E. 3. was repealed because made at such time by King Edward the 3. as Edw. 2. his Father BEING VERY KING was living and im riloned : fo that he could not refift the same. An express resolution by these two Parliaments, that his deposition was both void in Law, and illegal. 13ly, Neither of these 2. Kings, though their articles were more heinous, and Government more

unkingly, arbitrary than the late Kings, were condemned

1 2ly, King Edward the 2. after this

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or adjudged to love their heads or lives for their mildemeanors, but meerly deprived of their royal Authority, with a promile to preserve their lives, and treat them nobly, and that upon this account, that they were Kings, yea anointed Kings, when they transgressed, therefore exempted from all capital censures, penalties of Laws by any humane Tribunals: as David relolves, Plal. 1.4. Against thee, thee only have I finned; whence S. Chryfoltom, S. Ambrofe, Arnobius, with others in their Expositions on that Pfalm, S. Hierom Ecift. 22, & 47. Peter Mareyr on the 2 Sam. 2. 13. learned Groins, and others conclude in these words : Liberi +De Jure Belfunt Reges à vinculis delictorum neque enim ab penam uligli, 1. 4. c. 1. pocantur legibus, tuti Imperii poteffate, Hence † Otto Frifingenfis Episcopus, Wittes thus to the Emperor Frede . † Epift. Dediricke; Praterea cum nulla inveniatur persona mundialis qui fixed to his mundi legibus non sub acear, subjaciendo coerceatur SOLI Chronicon. R EGES, utpote constituti super leges in respect of corporal penalties) DIVINO EX AMINI RESERVATI, (couli legibus non cohibentur : unde est illud tam Regis quam Propheta testimonium; Tibi soli peccavi. These 2. presidents therefore no wayes justifie the proceedings against the late beheaded King, as I before hand manifested in my Speech in Parliamenc, Decem. 4. and in my Memento in Jan. 1648. which gave(m) ample fatisfaction herein, not only to (m) See the our 3. kingdoms at home, but to the learnedit Pretestant 2. Part of the Divines & Churcher abroad both in France, & Germany, as History of In-Samuel Bochartu. (an eminent French Divine) in his L1- dependency : tine Epistle to Dr. Morley, printed Parisiis 1650, attests inserted. Set 3. De Jure & porestate Regum, p. 145. Where afier a large and lolid proof out of Scripture, Fathers, and other Authors of the unlawfullneffe of our late Kings trial judgement and Execution; and that the Presbyterian English Ministers and Membees did then professedly oppugn, and write against it; he thus proceeds. Ex hoc numero PRYNNIUS, vir muleis rominibus infignis, & Parlamenti Delegatorum unus, è carcere in quo cum plaribus aliis detenebatur, Libellum composuit Parliamento oblatum; in quo decem rationibus, tilque balfoilsimis, concendit eos rem fillicitam:

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illicitam attentare (in proceeding Criminally and Capitally against the King;) Then reciting the Heads of my reasons against it, he concludes thus: Hec ille & multo plura, SCRIPTOR MIRE NERVOSUS, cujus verba funt stimuli et clavi in alcum defixi: After which he there prooves by several instances, how much the Protestant Ministers, Churches of France and Geneva, condemned these proceedings as repugnant to Scripture, and the Principles of the Procestant Religion: And Dr. Wolfgangus Mayerus (a famous Writer and Professor of Divinity at Basil in Germany) in his Epiftle Dedicatory before his printed Latine Translation of my Sword of Christian Magistracy, Supported. Bafil. 1649. "Vito Nobiliffimo ac confultiffimo, omnium Dodrinarum, Virtutumque Ornamentis ex-"cultissimo, vera pietatis zelo flagrantissimo, Orthodoxæ Religionis, libertatifque Patriz defeniori Acer-"rimo GULIEL MO PRYNNE. J. V. Doctori cele-"berrimo, Domino atque Amico suo plurimum hono-"rando Authori, Interpres, S. P. D. hath published to my felf in particular, and the world in general, That the beheading of the K. as it was contrary to the Parls. orimitive intention; fo it was, cum magna gentis Anglicana ig. nominia, "qui jam discincti, laudatitlimique corporis "compage miferrime rupta atque diffipata, ferre coguntur, "quod evitari amplius non potett. At lane non exigu-" am laudem APUD OMNES REFORMATAS EC-"CLESIAS consecuti sunt illi Anglia Pattores, qui "navos, et Errores Regia administrationis, quos mag-" nos fuisse agnoverunt, precibus porius a Deo deprecan-"dos, quam espirali pœna vindicandos elle centuerunt, " suasque Ecclesias ab omnibus sanguinariis consiliis, "magno zelo, animo plane intrepido, dehortati, om-" nemque criminis istius suspicionem, ab ipsis hoc pacto, " prudentissime amolitisunt. Sed hanc causam aliis dif-"ceprandam relinquo: Which learned Salmafins foon after professedly undertook in the Netherlands ; Vincentins, Heraldus and Bochartus, (3 most eminent Protestant Minifters) in France , in printed Treatifes published against

the Kings Irial, &c. as repugnant to the Principles of the Christian & Protestam Religion; Which another samous Frenchman in his French Translation of 47 London Miniflers Petition against it, thus brands. † Post Christum cruit † Samuelis "cifixum nullum atrocius crimen uspiam esse admissum; Bocharti Episte & universam terram eo concuti, & bonos omnes ad stola, p. 155. "luctum provocari, USQUE AD FINEM SECULI: Which Mr. Bradshaw may do well to ruminate upon now in cold blood, and all others ingaged with him in this unparalled Judgment & execution; being no way warranted by the depositions of King Edward, or Richard the 2.

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14ly. When the News of K. Richards depoling was report- Halls Chron. ed into France, King Charls and all his Court wondered, fol, 15. detelled and abhorred such an injury to be done to an anointed King, to acrowned Prince, and the head of the Realm: But in especial Waleram Earl of St. Paul, which had maried King Richards half Sifter, moved with high dildain against King Henry, cealed not to stir and prowoke the French King and his Counfel to make tharp war in Engla: d, to revenge the injury and dishonour committed and done to his Son-in-law King Richard, and he himself sent Letters of defiance to England. Which thing was foon agreed to, and an Army royal appointed with all freed, to invade England. But the French King fo flomached this high displeasure, and so inwardly corceived this unfortunate chance in his mind, that he fell into his old difeate of the Frenty, that he had need according to the old proverb, to fail to the Isle of Anticyra, to purge his melancholy humour; but by the means of his Phylicians, he was somewhat relieved and brought to knowledge of himself. This Army was come down into Picardy, ready to be transported into England. But when it was certainly certified that King Richard was dead, and that their enterprise of his deliverance was frustrate and void, the Army scattered and departed afunder.

But when the certainty of King Richards death was de-

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clared to the Aquitaynes and Gascons, the most part of the wiselt men of the Country fell into a bodily fear, and into a deadly dread; for some lamenting the instability of the English people, judged them to be spotted with perpetual infamy, and brought to dishonour and loss of their antient fame and glory, for committing so hainous a crime and derestable an offence against their King and Soveraign Lord. The memory whereof they thought would never be buried or extincted. Others feared the lotte of their goods and liberties; because they imagined that by this civil diffension and intestine division, the Realm of England should so be vexed and croubled, that their Country (if the Frenchmen thould invade it) should be destitute and left void of all aid and succour of the English Nation. But the Citizens of Burdeaux took this matter very fore at flomach, because King Richard was born and brought up in their City, lamenting and crying out, that fince the beginning of the world, there was never a more detestable or more villanous or hainous act committed: which being fad with forrow, and inflamed with melancholy, said that uncrue, unnatural, and unmercifull people had berrayed and flain, contrary to all Law and Juffice and honesty, a good man, a just Prince, and lawfull Governour; befeeching God devoutly on their knies, to be the revenger and punisher of that detestable offence and notorious crime. 15ly. The proceedings against King Richard the 2. in the Parliament of 1 H. 4. were in the (n) Parliament of 1 E. 4. n. 9, 10, 11, 12. condemned as illegal, the Tyrannous usurpation of Henry the 4th. with his hainous murdering of King Richard the a. at large fet forth, his reign , declared by Act of Parliament to be

(n) See an Exact Abridge ment, p. 670.

illegal, the Tyrannous usurpation of Henry the 4th. with his hainous murdering of King Richard the 2. at large set forth, his reign, declared by Ast of Parliament to be an introllon and meet usurpation, for which he and the heirs of his body are utterly distinabled, as unworthy to enjoy any inheritance, estate, or profits within the Realm of England or Dominions of the same for ever; and that by this memorable Petition of the Commons, wherein the pedigree of King Edward the 4th. and his title to the Crown, are likewise fully set forth, a Record most worthy the

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Ex Rotulo Parliamenti tenti apud Westm, anno primo Ed. Declaratio wardi Quarti, n. 8. - Memorandum quod quadam Petnio tituli Regii & exhibita fun prafato Domino Regi in prafenti Parliamento per reflicutio ad. prafatos Communes sub eo qui sequitur tenore verborum. For cundem, as much as it is notary, openly, and evidently known, that the right noble, and worthy Prince Henry, King of England, the third, had iffue Edward his furst gotten Son, born at Westminster in the 15 kalende of Juyll in the vigille of Seint Marce and Marcellian, the year of our Lord M. C. C. XLV. the which Edw. after the death of the faid King Henry his Fader, entituled and called King Edward the furst, had iffue his furst gotten Son, entituled and called after the decease of the same Edward the furst his Fader King Edward the second, which had iffue the right noble and honourable Prince King Edward the third, true and undoubted King of England and of France, and Lord of Ireland; which Edward the third had iffue Edward his furst gotten Son Prince of Wales, William Hatfield secund gotten Son, Leonel third gotten Son Duke of Clarenee, John of Gaunt fourth gotten fon Duke of Lancaster; Edmund Langley the fifth gotten fon Duke of York, Thomas Wodeftoks the fixth gotten fon Duke of Gloncefter, and William Wyndefore the seventh gotten Son. And the faid Edward Prince of Wales, which died in the life of the faid King Edward the thurd his Fader, had iffue Richard, which after the death of the same King Edward the third, as Cousin and heir to him, that is to say Son to the faid Edward Prince of Wales, Son unto the laid King Edward the third, succeeded him in royal estate and dignity, lawfully entituled and called King Richard the fecund, and died without iffue, William Hatfield the fecund gotten Son of the faid King Edward the third died without iffue, the faid Leonel Duke of Clarence the third gotten Son of the same King Edward had iffue Phelip his only daughter and died, And the same Phelip wedded unto Edmund Mortimer Earl of Marche, had iffue by the same Ed-Nnn

Edmund, Roger Mortymer Earl of Marche her Son and heir, which Edmund and Phelip died, the same Roger Earl of March had iffue Edmund Mortymer Earl of March, Roger Mortymer Anne and Alianore and died. And also the fame Edmund and Roger fons of the forefaid Roger, and the faid Alianore died without Islue. And the same Anne wedded unto Richard Earl of Cambridge, the Son of the faid Edmund Langley, the fifth gotten fon of the faid king Edward the third, as it is afore specified, had iffue that right noble and famous Prince offull worthy memory, Richard Plantagenet Duke of York: And the faid Richard Earl of Cambridge, and Anne his Wife died, And the fame Rich. Du. of York had iffue the right high and mighty Prince Edward, our Liege and Soveraign Lord, and died, to whom as Confin and heir to the faid King Richard the Crown of the Realm of England, and the royal power, estate, dignity, preheminence and governance of the same Realm, and the Lordship of Ireland, lawfully and of right apperraineth, of the which Crown, Royal power, estate, dignity, preheminence, governance and Lordship the said King Richard the lecond was lawfully, rightfully and justly feifed and pollefsed, and the same joyed in rest and quiet without interruption or molestation, unto the time that Henry late Earl of Derby, fon of the faid John of Gaunt, the fourth gotten fon of the faid King Edward the third, and younger Brother of the faid Leonel, temeroully agenst rightwisnes and Instice, by force and Arms agenst his faith and liegeaunce rered werre at Flynce in Wales agenit the faid King Rithard, him took and enprisoned in the Tower of London of grere violence. And the same King Richard to being in prison, and living, usurped and intruded upon the royal power, estate, dignity, preheminence, possessions and Lordhips aforefaid, taking upon him usur poulty the Erown and name of K. and L. of the same Realm and Lordship. And not therewith satisfied or content, but more grievous thing accempting, wickedly of unnatural, unmanly, and cruel tyranny, the same King Richard, King anointed, crowned and consecrate, and his Liege and most high Lord in the Earth,

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agenst Gods Law, Mans liegeance and Oth of fidelite, wish uttermast punicion attormenting, murdred and destroyed, with most vile, bainous and lamentable death; whereof the heavy exclamation in the doom of every Christian man oundeth into Gods hearing in Heaven, not forgotten in the Earth, specially in this Realm of England, which therefore hath suffered the charge of imollerable perfecution, punision and tribulation, whereof the like bath not been feen or heard in any other Christian Realm by any memory or Record: Then being on Live, the faid Edmund Mortymer Earl of March, fon and heir of the laid Roger, fon and heir of the laid Philip, daughter and heir of the faid Leonel; the third Son of the faid King Edward the third; To the which Edmund after the deceale of the said King Richard, the right and title of the same Crown and Lordship, then by law, custom and conscience descended and belonged, and of right belongeth at this time unto our faid Liege and Soveraign Lord, King Edward the fourth, as Confin and heir to the faid King Richard, in manner and form abovefaid. Our faid Soveraign and Liege Lord King Edward the fourth, according to his right and title of the laid Crown and Lordship, after the decease of the said right noble and samous Prince Richard Duke of York, his fader, in the name of Jefu, to his pleasure and loving the fourth day of the Month of March last past, took upon him to use his right and title to the faid Realm of England and Lording, and entred into the exercise of the royal estate, dignity, preheminence and power of the same Crown, and to the reign and governance of the faid Realm of England and Lordthip; And the same fourth day of March amoved Henry . late called King Henry the fixth, fon to Henry, fon to the laid Hen.late E.of Derby, fon to the faid John of Gaunt from the occupation, usurpation, intrusion, reign and governance of the same Realm of England and Lordhip, to the universal comfort and consolation of all his Subgetts and Liegemen, plentevonsly joyed to be amorved and departed from the obey-Sance and governance of the unrightwife usurpour, † in whose time, not plenty, Pees, Justice, good governance, pollicy, and vertuous e Nnn2

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unright wifeness, hedding and effusion of innocent bloud, abuse of the Laws, partiality, riot, extortion, murder, rape and vitious living, have been the guiders and leaders of the noble . Realm of England, in antient time among allChristian realms landably reputed of great honour, worship, and nobly dradef all ontward Lands, then being the law ier of honour, prowefs and worthiness of all other Realms, in the time of the faid usurpation fallen from that renown unto mifery, wretchedness, desolation, shamefull and sorrowfull decline. And to live under the obeyfance, governance and tuition of their true right wife and natural Leige and Soveraign Lord. The Commons being in this present Parliament, having fufficient and evident knowledge of the faid unrightwife nsurpation and intrusion by the faid Henry late Earl of Derby, upon the faid Crown of England, knowing also certainly with. out doubt or ambiguity the right and title of our faid Soveraign Lord thereunto, true, and that by Gods Law, Mans Law, and the Law of Nature, be and none other is and ought to be their true right wife and natural Liege and Soveraign Lord. And that he was in right from the death of the faid Noble and famous Prince his Fader, very just King of the faid Realm of Englond. And the faid 4. day of March in lawfull poffef. Sion of the same Realm with the royal power, prebeminence, estate and dignity belonging to the Crown thereof, and of the faid Lordship; take, accept and repute, and will for ever take, accept and repute the faid Edward the fourth their Soveraign and liege Lord, and him and his heirs to be Kings of England, and wone other, according to his faid right and title. And befeech the same their said Liege and Soveraign Lord King Edward the fourth, that by the advice and affent of the Lords Spiritual and Temporal being in this present Parlement, and by authority of the same, his right and title to the said Crown afore specified, be declared, taken, accepted and reputed true and rightwise, the same right and title to abide and remain of Record perpetually, by the faid advice, affent and authority. And that it be declared and judged by : he said advice, affent and authority, that the said. Henry late

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late Earl of Derby, for the faid treating of warr against the faid King Richard, then his Soveraign Lord, and the violent taking, imprisoning, unrightwise usurpation, intrusion, and borrible cruel murder of him, agenst his faith and ligeance, wickedly and unjustly offended and burted the Royal Majesty of his faid Soveraign Lord. And that the same Henry unrightwifely, agenst Law, conscience, and custom of the said Realm of England, usurped upon the said Crown and Lordship. And that be, and also Henry late called King Henry the fifth, his fon, and the faid Henry, late called King Henry thefixth, the son of the faid Henry, late called King Henry the fifth, occupied the faid Realm of England, and Loraship of Ireland, and texercife the governance thereof by unrightwife intrusion and usurpation, and in one other wife. And that the taking of possession and entry into the exercise of the Royal Eflate, dignity, reign and governance of the faid Realm of England, and Lordship of Ireland, of our faid Soveraign Liege Lord King Edward the fourth the faid fourth day of March, and the amotion of the faid Henry, late called King Henry the fixth, from the exercise, occupation, usurpation, intrusion, reign and governance of the same Realm and Lordship, done by our said Soveraign and Liege Lord King Edward the fourth, the faid fourth day of March; was and as rightwise, lawfull, and according to the Laws and customs of the faid Realm, and so ought to be taken, holden, reputed and accepted. And over that, that our faid Soveraign and Liege Lord King Edward the fourth, the faid fourth day of March, was lawfully feifed and possessed of the said Crown of England in his faid right and title, and from thenceforth have to him and his heirs Kings of England, all fuch Manors, Cattles, Lordships, honours, lands, tenements, rents, fervices, fees, feetarms, rents, Knights fees, advowlons, gift of Offices, to give at his pleafure, fairs, markets, iffues, fines, and amerciaments, libercies, franchifes, prerogatives, elcheats, cultoms, reversions, remainders, and all other hereditaments, with her appurtenance, what soever they be, in England, Wales and Irelond, and in Caleys, and the Marches thereof, as the faid

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King

King Richard had in the tratt of Sc. Marthew the Apollle the 23. year of his reign, in the right and title of the faid Crown of England, and Lordship of Inclored, and should after his decease have descended to the said Edmund Mortimer Earl of March, fon of the faid Reger Martimer Earl of March, as to the next heir of bloud of the fame King Richard after his death, if the faid usurpation had not been committed; or after the decease of the same Edmund, to his next heir of blood by the Law and custom of the laid Realm of England the Manors, Caltles, Honors, Lord. ships, lands, menements, possessions, and hereditaments, with their appurcenances, which come to the hands of the faid King Richard by forfeiture, by force of an Act made in a Parlement holden at Westminster the 21. year of his reign except; the faid Commons befeeching our faid Liege Lord to have and take all only the issues and revenues of all the laid Caftles, Manors, Lordships, Honors, lands, tenements, rents, fervices, and of other the premifes aforefaid, with their appurtenances, except alore except, from the faid fourth day of the faid moneth of March, and not afore. Saving to every of the liegemen and subjects of our laid Soveraign and liege Lord King Edward the fourth, such lawfull title and right, as he, or any other to his use had in any of the premises the said third day of March, other than he had either of the grant of the faid Henry lare Earl of Derby, called King Henry the fourth, the faid Henry his fon, or the faid Henry, late called King Henry the fixth, or by authority of any pretenced Parlement holden in any of their dayes. And that it be ordained, declared and tablished, by the assent, advice, and authority aforefail, That all Statutes, Acts and Ordinances heretofore made, in and for the hurt, destruction and avoyding of the faid right and title of the faid King Richard, or of his heirs, to ask claim, or have the Crown, Royal power, estate, dignity, preheminence, governance, exercise, possessions and Lordship abovefaid t be voyd, and be taken, holden, and reputed voyd, and for nought, adnulled, repealed, revoked, and of no force, value or effect. And furthermore consideration and respect had,

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to the thorrsble, detestable, cruel and inhuman syramy by the said Henry late Earl of Derby, against his faith and ligeance done and committed to the faid King Richard, his rightwife thue and natural Liege and Soveraign Lord, the unright wife and unlawfull usurpation and intrusion of the same Henry upon the faid Crown of England and Lord hip of Ireland, the great intoller able hurt, prejudice, and derogation that thereby follow. ed to the faid Edmund Mortymer Earl of March, next heir of blood of the said King Richard, time of his death, and to the heirs of the faid Edmund, and the great and excessive damage that by the said usurpations and the cominuance thereof hash grown to the faid Realm of England, and to the politique and peaceable governance thereof, by inward wars moved and grounded by occasion of the faid Usurpation; It be therefore Ordeined, declared and stablished by the advice, aftent and authority aforelaid, for the more stablishing of the affu red and undoubted inward rost and tranquility of the said Realm of Engloud; And for the avoyding of the faid afterpation and intrusion very cause and ground of the tribulation, persecution, and adversity thereof, that the said Henry late Earl of Derby, of the heirs of his body coming, t be from henceforth unabled, and taken and holden from hence forth unable and unworthy, the premises considered, to have, joy, occupy, hold or inherit any estate, dignity, preheminence, enheritaments or pofsessions within the Realm of England, Wales or Ireland aforefaid, or in Caleys or the Marches thereof. And fith that the Crown, Royal estate, dignity and Lordship above rehearled, of right appertained to the faid Noble Prince Richard Duke of York; And that the faid Ulurper late called King Henry the fixth, that understanding, to the intent that in his opinion he might the more furely stand and continue in his usurpation and intrusion of and in the same Crown, Royal estate, dignities, and Lordship evermore, intended and laboured continually by subtile imaginations, frauds, deceipts and exorbitant means, to the extreme and final destruction of the same noble Prince Richard and his issue. And for the execution of this malicious and damnable

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purpose therein : in a presence Parliament by him and his u-Surped authority bolden at Coventree the 38 year of his usurved Reign, without cause sawfull or reasonable, declared and udged the same noble Prince Richard, and the Noble Lords his Sons, that is to wit Edward then Earl of March; and now the King our Soveraign Lord abovefaid, and Edmund Earl of Ruthland, to be his Rebels and Enemies, them, and all their iffue dif-inheriting of all name, state, title, and preheminence, tenements, possessions and enheritaments for evermore, cruelly, wickedly and unjustly, and agenst all, bumanity, right and reason; whereby the said noble Prince Richard and his fons above named, were compelled by the dread of death to absent them for a time out of this Realm of England, the natural land of their birth, unto their intollerable hurt, prejudice, heavinesse and discomfort. And where after thele the faid noble Prince Richard Duke of Tork, ufing the benefice of the Law of Nature, and sufficiently accompanied for his defence and recovery of his right to the faid Crown of the faid Realm came thereunto, not then having any Lord therein above him but God. And in the time of a Parliament holden by the said Henry, late called King Henry the fixth, the fixth day of Ottober, the 39 year of his laid usurped reign, entended to use bis right, and to enter into the exercise of the royal powers, dignitees, and Lord hips above said, as it was lawfull, and according to Law, reason, and justice bim so to doe; and thereupon shewed, opened, declared, and proved his right and title to the faid Crown, to fore the Lords Spiritual and temporal, and Com. mons being in the same Parlitment, by antient matters of sufficient and notable Record, undefaisible; whereunto it could not be answered or replyed by any matter that of right ought to have deferred him then from the possession thereof; yer nevertheless for the tender zeal, love, and affection that the same Duke bare of Godly and blefsed vertues, and natural disposition to the restfull governance and pollicy of the same Realm, and the Common wele thereof, which he loved all his life, defired and preferred afore all other things earthly, though, all the faid feid liber title anfii kner mon men que

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feid Lords (piricual and temporal, after long and mature deliberation by them had by good advice, upon the feid right and title, and the authorities and Records proving the same, the answers thereunto given, and the replications to the same made, knew the same right and title true, by them and the feid Commons so declared, accepted and admitted in the same Parliament. It liked him, at the grete inflance, defire and requeit of the feid Lords, folemaply, and many times unto him made, to affent and grant unto a convention, concord and agreement between the feid Henry, late called King Henry the fixth on that comparty, and him on that other, upon the feid right and title by the same late called King, by the advice and affent of the feid Lords Spiritual and Temporal, and Commons, being in the feid Parliament austorized, in the fame, comprehending, among other, that the feid Usurper, late called King Henry the fixt, understanding certainly the leid title of the faid Richard Duke of York, just, lawfull, true and fufficient, by the advis and affent of the Lords Spiritual and Temporal, and Commyns in the feid Parliament assembled, and by authorite of the lame, declared, approved, ratified, confirmed and accepted the feid title, just, good, lawfull and true, and thereunto gave his affent and agreement of his free will and liberry: And over that by the feid advis and aufforice, declared, affirmed, and reputed the feld Richard Duke of York, very true and rightfull heir to the Crowns, Royal estate and dignice of the Realms of England & France, and Lordship of Ireland aforeseid: And that according to the worship and reverence thereto belonging, he should be taken, accepted and reputed in worship and reverence by all the Estates and persons of the seid Realm The feid Ufw per late called King Henry the of England. fixth, faving and referving to himself the seid Crowns, Realms, royal estate, dignite and preheminence of the fame, and the feid Lordship of Ireland during his life natural. And furthermore by the same advice and authotite would, consented and agreed, that after his decease, or when it should please him to lay from him the seid Crowns, 000

Crowns, estate, dignity, and Lordship, or thereof centede, the feid Richard Duke of York and his heirs should immediately succeed him in the seid Crowns, Royal Estate, dignity and Lordship, and them then have and enjoy, any Act of Parliament, Statute, Ordinance or any thing to the contrary made, or interruption, or discontinuance of possession notwithstanding: And if any person or perfons from thenceforth imagined or compaced the death of the feid Richard Duke of Tork, it be deemed and judged high Treaton, in manner and form as it is specified in the seid Act; And that the seid Noble Prince Richard Duke of Tork, by way and consideration of recompence for his abitaining for a time of the exercise of the seid royal power of the benigne and noble disposition that he bare to the laid Common wele, and to the rest and tronquillity of the seid Realm, should have Castles, Mannors, lands and tenements to the value of 1.0 Mil. Marc. whereof the Earldom and City of Chester was parcel, asfigned to the faid Duke by special Act made in the seid Parliament, the which Earldom and City the feid Duke gave among other unto our feidSoveraignLord then being Earl of March, as parcel of Manors, Lordships, lands and tenements of the yearly value of 3 Mil. Marc. which, by vertue of the feid convention and concord, and the Act thereof made, was given unto him for the lustentation of his estate; abiding and persevering like a true Christian and honourable Prince, in full purpose to keep and observe the seid Convention and concord for his party, trusting verily that the seid Usurper Henry, late called King Henry the fixth, would have truly, faithfully, justly keped and observed for his party the same convention and concord inviolable, as by Law, reason, Princely honour and duty he was bounden to doe; and not have departed and varied from such convention made of so high and fo great authority as it was made, whereunto neither our seid Soveraign Lord, ne the seid noble Prince affented, but withour prejudice of the feld right and ritle, as it is plainly specified in the seid A& made upon

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the leid convencion and Concord, and under procedation and condition, that the feid Usurpour shuld kepe and perform without fraude or male ingyne, all things therein contained for his feid party, declared openly by their mouths in the prefens and heryng of the faid Lords in the seid Parliament, and therein enacted of Record, at the grete instaunce and prayer of the same Usurpour, late called King Henry the fixth; And at the folempne request of all the feid Lords, for the tender and special zele, love, and affection that he bare to the rest of the seid Realm, and to the Commyn wele and policy thereof, toke his viage of good, bleffed and vertuous intent, and dispolition toward the North parties of the faid Realm, to repress and subdue certain riots, rebellions, infurrections, and commotions there begun. And the premiles, notwithstanding the feid Henry Usurpour, late called King Henry the fixth, continuing in his old rancour malice, using the fraud and malicious disceit and dissimulation agenst trouth and conseience that according with the honour of eny cristen Prince, to thement that the faid Agrement, concord and A Et shuld take no due effect: And into the frustacion of the same in the matiers and things above reherced; that is to fay, that neither the feid Richard Duke shuld have ne enjoy the same Castells, Manoirs, lands and tenements, name, title, reverence and worship above reherced, neither he ne his ions and heirs succeed in the seid Corones, Royal estate, dignity, lordship, after the tenure, fourm and effect of the aid agreement, concord and Act, with all subtil imaginacions and disceitful ways and means to him possible intended, and covertely laboured, excited and procured the final destruition, murdre and death of the said Richard Duke, and of his Sons, that is to sey of our seid new Soveraign Lord King Edward the fourth, then Earl of March, and of the noble. Lord Edmund Earl of Ruthlande: And for the execution of his damphable and malicious purpole, by writing and other mellages, moeved, excited and stirred thereunto the Dukes of Excepter and Somer fet, and other Lords, being then in the North parties of this Realm 0002

Realm; whereupon at Wakefeld in the Shire of York, the seid Duke of Somerfer fallely and trainetously the same Noble Prince, Duke of York, on Teinsday the 30 day of Decemb. last passed, horribly, cruelly, traiseroufly murdered, And also the worthy and good Lords Edmund Earl of Ruthland, Brother of our feid Soveraign Lord, and Richard Earl of Salesbury. And not therwith content, of their insatiable malice after that they were dede made them to beheaded with abhomynable cruelte and horrible despute, agenst all bumanite and nature of Nobles , And after that the fame Henry Ufarpour gretely and wonderfuly joying the feid dolorous and pitcous murder of the same noble Prince and worthy Lords, to the Realm, an heavy and a lamentable forrow, and lost; fortbwith, and oftentimes after openly declared to divers Lords of the same Realm, Then he would not in any wife keps the feid Convencioun and accord, ne the act thereof made: and to the infraccion and violatiation of the faid convention and concord, not only fent Letters made under his prive Seal unto certain Knights and Squiers, commaunding and charging them by the same, to spoil and diffeile our feid Soveraign Lord by the name of Earl of March, of his possession of the seid Earldom and Citee of Chester, whereof he was lawfully coffessed and seased by verrue and reason of the seid Convencion and Concord, but also of extreme violence, utter and final breche of his party of the feid convencions and concord, fent out writs under his Seal to the Mayer, Aldermen, and Commonalte of the Citee of London, bering date the 12 day of Feverere last past, and other like Writs to divers Officers, Governours, and Ministers of divers other Citees, and to many Shires and Burroughs of the feid Realm, to make fals, untrue and injust proclamations against our feid Soveraign and Liege Lord K. Ed. the 4 h.by the name of Ed. late E.of March, to provoke and excise his destruction. And also by his Letters figned with his hand directed unto the feid Dukes of Excester and Somer fet, and other Lords refused and denied to keep and observe the seid accord, convention and agreement, and by the same witting

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ting falfifying his promite, departed from the same Convention and accord, afore either the same our Soveraign Lord, or the feid noble Prince his Fader any thing did, or attempted to the contrary of the same convention and concord for their partie. Be it declared and juged by the feid advis, aftent and authorite, the premiles confidered, that the feid Ufurper Henry, late called Henry the fixth, agenit good faith, troth, conscience, and his honour, brake the feid Convention and concord, and departed therefrom of wilfull malice long afore the feid fourth day of March, as by the matters afore declared it appeareth fushciently : And that the breche thereof on his partie, discharged our feid Soveraign Lord of all things that should or might charge him to the keeping thereof in any Article or point after the feid breche. And that he was then at his freedom and liberty to use his faid right and title of the seid Crownes, and to enter into the exercise thereof, and of the Royal power, dignite and preheminence longing therepmo, as he lawfully did in manere and fourm above specified; the feid convention and concord, and the Acte there. upon made, or any thing therein conteined not withfran ding. And over this it be declared and juged by the feid advis, affent and authorite, that the feid agreement, concord, and Act, in all things which been in any wife repugnant or contrary to the feid right, title, entree, flate, featen and postettion of our Soveraign Lord King Edward the fourth, in and to the Crown Royal, estate, dignite and Lordship abovesaid, be void and of no force ne effect. And that it be Ordeyned an I stablished by the seid assent, advis and authorite, that every perfor having any parcel of the leid Castles, Manors, Lands, Honours, tenements, rents, services, possessions or hereditaments aboveleid, the which were given in exchange, or in recompence of or for any other Manors; Castles, lands, tenements, rents, advowlons, fee-farms, reversions, or any other polsessions or enhericaments given to the seid Henry late Earl of Derby, to the feid Henry his fon, late called King Henry the fifth, or to the feid Henry his ion late called King

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King Henry the fixth, or to any other perion or periones to or for their or any of their ule at their or any of their defire, or to perform & execute their or any of their wille, mowe, entre; And that they and their heirs and fucceffors entre into the same Manors, Castles, Lands, tenements, rents, services, possessions, advowsons or hereditaments so given, And them have, hold, keep, joy, occupy and inherit of like estate as the giver or givers thereof had them at the time of the gift thereof made, though it be fo that in any of the Letters Patents or gifts made of any of the premises, no mention be made of any recompence or es-Qua quidem petitione in Parliamento pradicto change. lecta, audita, & plenius intellecta, de avisamento & assensu Dominorum Spiritualium & Temporalium in codem Parliam. existen. & ad requisitionem Communicatis pradicta, respondebatur eidem, modo O forma hic Inferius annotatis.

Respons!

The King, by the advice and assent of the Lords Spiritual and Temporal in this present Parliament assembled, at the request of the Commyns being in the same, agreeth and assente to this Petition, and it accepteth, with certain moderations, provisions and exceptions by his Highness thereupon made, and in schedules written, and in the same Parliament delivered, the tenours of which hereunder follow, &c.

Convenit cum Recordo.

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This Judgement, censure, repeal in sull Parliament of the deposition and proceeding against King Richard the 2. upon the Commons own Petition, by this Act, never yet reversed, as most wicked, treasonable, unrighteous, against Gods Laws and Mans, crying for vengeance in Gods hearing in heaven, and exemplarily punished upon the whole kingdom, Nation, and Henry the 4. his posterity on earth, with the sad intestine warres, mileries that attended it, are sufficient arguments of its unlawfulness & detestableness, against all those who deem it just, or allege it for a president to justifie their extravagances of a more exectable and transcendent Nature. 16ly, It is very observable, that Roger Moreimer, Earl of March, who had the

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chier hand in depoing, murchering King Edward the 2. (0) Henry de after he was deposed, was (o) in the Parliament of 4E. 3. Knyghton, de condemned and execused for it as a Traytor, without any legal 1, 3, c, 16, col. trial, all his lands conficated, and Queen Ifabel her felf 2556, 2557, (who concurred with him) like to be questioned for her life: 2558. and abridged in her maintenance. Moreover, King Richard the 2. Granchild and next heir to King Edward the 3. who imprisoned, deposed and invaded his Fathers throne, (though somewhat against his will) was imprisoned, de. posed, proceeded against in the self same manner as Edw. the 2. was, by his very prefident, and foon after murdered (like as Edw. the 2. was) by King Henry the 4. After which king Henry the 4. his Granchild, Henry the 6. was also in the self same manner, imprisoned, deposed, attainted of high Treaton, with his Queen and Adherents in the Parliament of I Edw. 4. n. 8. to 33. and at last murdered by Edw. the 4. his procurement, to secure the Crown to himself and his Posterity. Yet no sooner was King Edw. the 4. dead, but his own Brother (p) Richard (p) See Sir Tho. Moor, Duke of Gloucester, (who by his instigation murdered Hall, Holin-King Henry the 6. with his own hands) procuring himfel thed, Grafton, to be Protector of his ion, King Edw. the 5. then young, Speed, Baker, getting his Brother and him into his cultody by treachery Exact abridge perjury, and hypocrifie, cauled them both to be barba- ment, p. 709, roully murdered, to fet the Crown on his own head; which 710, 711, &c. he most ambitiously aspired after, yet seemed unwilling to embrace, till enforced to accept it, by a Petition and Declaration (drawn up by his own Instruments) presented to him, in the name of the Lords Spiritual and Temporal, and Commons of the Realm of England; wherein he branded his Brother king Edw. the fourth his marriage, as illegal, and his iffue as illegitimate; aspecsed his Life and Government, as one by whom the Laws of God, of Gods Church, of the Land, and of nature, and also the landable Customs and Liberties of England (wherein every English man is inheritor) were broken, subverted, contemned, against all reason and justice; So that the Land was ruled by self-will and pleasure, fear and dread, all manner of Equity and Law laid apart and despised,

so that no man was sure of his life, land, or livelihood; and ma ny inward discords, battels, effusion of much Christian bloud, and destruction of the Nobles bloud of this land, ensued and were committed through all the Realm, unto the great forrow and heaviness of all true Englishmen. And then he declared himself, undoubted heir and inheritor of the Crown by descent, grounded on the Laws of God and Nature, and the antient Laws and landable Customes of this Rea'm; yet for further security superadded another Title, of lawfull Election by the three Estates in Parliamen; then he intayled the Crown upon the issue of his body begotten, and declared his fon Prince Edward to be his heir apparent, to succeed him in the Crown and royal Dignity by Act of Parliament, which he ratified with his own royal affent. This done, he reputed the Crown cock-fure to him and his heirs for all generations. Yet notwithstanding all his Machiavilian Policies, Power, Vigilancy, care, industry to fecure his ufurped Royalty, by the mnrther of two Kings and many others, (fome of them most instrumental to advance him to the royal Throne before he had worn the Crown full 3. years, Henry Earl of Derby laying Title it, and landing in Wales only with 2000 foldiers, King Richards own Souldiers, Friends and others revolting from him, and joyning with the Duke; he was flain in Posworth field, and lost both his life and Crown together, if not his foul for all eternity: and by the Statute of 1 H.7.c.6. he was declared an Ufurper of the Realm. So unable are Parliaments themselves to secure Crowns on Usurpers heads, or to entayl them for any long continuance on their Posterities; as these Tad tragical domestick presidents of later times, with sundry antienter demonstrate.

(q) King Henry the seventh, having gained actual pos-(q) See Hall, feffion of the Crown, as right heir thereunto by the Lancastrian line, and espoused the better title of York, by matrying the heir female; to secure himself and his adheren sforthe future, if any wars should arise about these dubious litigious Titles by Perkin Warbecks or others claims, confirmed by several Acts of Parliament, and Successions of

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Kings of both Houses, claiming both as next heirs of the an. tient royal Line; not to secure any suture Usurgers, without Just right or title, though not of the old bloud Royal, if once Kings de fallo, as (1) Sir Edward Cooke leems to incimate ; (1) sinfticfit. and iome ignorant Lawyers affert, (against the intent and Prologne of the Alt it felf, I cauled it to be enacted, 11 H.7. C. I. That from benceforth no person or persons what soever, that attend upon THE KING and Soveraign Lord of this La d for the time being in his perfon, and do him true and faithfull Service of allegeance in the same, or be in other places by his commandment in the warrs within the Land or without; shall for the faid deed, and true duty of allegiance, be in no wife convict or attaint of Digh Treaton, of other offences for that cause by Act of Parliament, or otherwise, by any Plocels of Law, whe coy he or any of them shall loje or forjest life, lands goods, chattels, or any other thing; but to be for that deed and fervice utterly discharged of any vexation, tronble or lofs. And if any Act or Acts, or any other precess of the Law hereafter the eupon for the same happen to be made, contrary to this Ordinance, that then that Act or Acts, or other process of the Law, what soever they shall be, shall stand or be unterly void: The reason is rendred in the Prologue; That it is not reasonable, but against all Laws, reason and good conscience, that the said Subjects going with their Soveraign Lord in wars, attending upon his per fon, or being in other places, by his commandment, within this Land or without . any thing should lofe or forfeit for doing their true buty and ferbice of Allegiance. This Act (which some conceive to be only personal and temporary for Henry the 7. alone) could the 1H.7.c.6 por secure the Heads, Lives, Liberties, Lands, Offices, Goods or Chattels of those Lords, Gentlemen, and other English Subjects, from Executions, Imprisonments, Banishments; Forfeitures, Sequestrations, who accompanied, assisted our late King in his warrs against the Parliament, (2) See An though King de facto, and de jure too, without any compe-Exact abridgtitor: (2) Both Houses declaring them to BE TRAY-ment, p. 150, 151,259,260, 261, 299, 300, 576, 611, 612. The History of Independency, Part. 2.

Ppp

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TORS, and legnestring, proceeding against them as Traytor, yea our Grandees fince have executed them as fuch in their new erected High Courts: How then it can totally indemnify any Perkin Warbecke, Jack Cade, or apparent Usurpers of the Crown without right or Title, who shall per fas aut nefas, get actual possession of the Royal throne, and be Kings de facto; or secure all those who faithfully adhere unto them (though to disposses the King de jure, or his right heir of their just royalty and right, against all Laws of God, man, all rules of justice, and their very Oathes of Allegiance, Supremacy, Homage, Fealty, Protellations, Leagues, Covenants formerly made unto them) from all sutes, vexations, loss, forfeitures what soever, and null all Act or Acts, and legal Process made against them (as many Grand Lawyers now conceive it doth) tranitends both my Law and reason too. That opinion of Sir Edward Cooke 3. Instit. f. 7. & 9 E. 4. f. 1. b. (whereon this erronious Gloss is grounded) That a King regnant in possession of the Crown and kingdom, though be be Rex de tacte, & non de jure; yet he is, Seignior le Roy, within the purview of the Statute of 25 E. 3. ch. 2. of Treason: and the other King that hath right and is out of possession, IS NOT WITHIN THIS ACT. Nay, if Treason be committed a. gainst a King de facto, et non de jure, and after the King de jure cometh to the frown, he shall punish the Treason done to the King de facto. And a pardon granted by a King de jure, that is not also de facto, is voyd: being no doubt a very dangerous, and pernicious Error both in Law and 10licy, perverting those Laws which were purposely made for the preservation of the Lives, Crowns, Rights, Titles, Persons of lawfull Kings, against all attempts, Treasons, Rebellions against them; and for the exemplary punishment of all Traytors, Rebels, Usurpers who should rebel, wage warr, or attempt any Treason, Conspiracy against their royal Persons, Crowns, Dignities, Titles; into a meer Patronage of Traytors, Rebels, Ulurpers, and a Seminary of endles Treasons, Assassinations, Conspiracies against them; by indemnifying, exempting both them:

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and their Confederates from all legal profecutions, penalties, forfeitures whatfoever, if they can but once gain actual coffessio of the Crown by any means, upon the forcible expulsion, deposition, assassion, or murder of the King de jure. Which it once declared for Law, I appeal to all Lawyers, Politicians, Statesmen whattoever, whether it would not prefently involve our kingdoms in endlefs, perrecual Rebellions, Usurpations, Wars, Regicides, as it did the Norwegians heretofore: where by a kind of Liw and Cultom, as our (3) Gulielmus Nubrigenfis relates: (2)Hift. Angl. O .. cunque Rege tyrannice occiderat, co ipfo personam et 10-1.3. c.8. p. 233, testatem Regiam induens, suo quoque occisori candem post mo. 234. dicum fortunam inveterata consuetudinis lege relicturus. Quippe ut dicitur) a centum retro annis et eo amplius, cum Regum ibidem numerofa successio fuerit, Anllus cozum fenio aut mozbo vitam finivit, fed omnes ferro interfere, fuis interfectozibus, tanquam legitimis fuccessozibus, regni faffigium relinquentes: nt scilicet omnes qui tanto tempore ibidem imperalle no scuntur, illud quod Scriptum est respicere videatur; † OCCIDISTI INSUPER ET POS- | Kings 21. SEDISTI. Wherefore to prevent the dangerous Confe- 19. quences of these falle Glosses on the Statutes of 25 E.3.c. 2. & 11 H. 7. c. I. I shall lay down these infallible (4) See Forgrounds: I. That all (4) publike Laws are and ought to be rescue, de founded in Justice, righteousnes, and common honesty, for the Laudibus lepreserving, securing the lives, persons, estates of all men, es gum Anglia. pecially of lawful Kings and Supreme Magistrates from all violence, invasion, force, differsins, usurpations, conspiracies, affassinations, (being against all rules of Law and Justice,) Exod.2c.12.10 18.c.21,& 22. & 23.Mar.5.17.to 48.c.7. 12. Deut. 4. 18. Plal. 19. 8. 9. Pl. 119. 7. 106; 137, 138. 160, 167. Rom. 7. 12. Deut. 6. 25. Pf. 33. 5. Pi. 45.7. Pi. 72. 2. Pi. 74. 15. Prov. 8. 18. Prov. 24. 21. Rom. 13. 1. to 7. Lu. 20. 25. Tit. 3. 1, 2, 3. 1 Tim 1.9, 10. Job 20, 19. c. 24. 2. Mich. 2. 1, 2, 3, 4. Jer. 6. 7. c. 20. 8. c. 22. 3. 17. Ezech. 45. c. Hab. 1, 2. to 10. Lu. 3. 14, Whence (5) Cicero thus defines Law; Lex (5) De Legiest ratio summa, insita in natura, que jubet ea (justa) bus, p. 490. Ppp 2

2. Statutes were purpofely made for those great ends, and

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que facienda sant, prohibe que contraria.

(5) De Inventio: p. 50.

ought to be interpreted onely for the best advantage of Lawfull Kings and their adherents; not for the indemnity, impunity, encouragement of Traytors, Redels, Intruders, Ulurpers. 2ly, What (5) Tully writes of the Roman Senators, we ought to doethe fame of our English Parliaments and Legislators : Ea virente et sapientia majores nostri fuerunt, ut legibus scribendis nihil sibi alind quam falutem aique utilitatem reipublica proponerent. Whence he there inferes : A Legibus nihil convenit arbitrari, nisi quod reipublica conduca:, proficifci; quoniam ejus canfa funt comparata. Therefore these Laws are to be interpreted for the best security, safety, preservation of the lawfull heads of the Commonwealth, and their rightfull heirs and loyal durifull subjects; not for their dettruction, and the indemnity, fecurity of Ularpers, Traylors, Rebels, afpiring after their Crowns, Thrones, Affallinations, to the pub-3ly, All the branches of the Statute of 25 E. like rnine. 3. c. 2. (made at the special request of the Lords and Commons, and that by a lawful King at that season) declare this Statute to be meant only of a lawful King whiles living, whether in or out of actual possession of the Realm, not of a bire Ulurper in possession without right, as Sir Edward Cooke expounds it : elle it will necessarily follow (6) See Cooks That is (hall be no Treason at all to compasse or imagine the 8 Report f. 28. death of the King de jure (if once dispossessed for a time by Violence and I reason) or of his Queen, or eldest son and heir; or to violate his Queen or eldest daughter not maried: or to levy war against the lawfull King in his Realm, or to be adherent to his Enemies within the Realm or essewhere or to

counterfeit his Great or Privy! Seal or miny; G'c. But high Treason in all these particulars in relation only to the U-Surper in possession, without and against all right and Title : which would put all our rightful Kings and Supreme Governors into a farr worfer, fadder condition, than their Trayterous Usurpers: and into a worse plight than every Diffeisee, or lawfull heir intruded upon by abatement, or

dispossessed.

di possessed by torcious, unjust, or forcible entries; for which Our Common and Statute Laws have provided many speedy and . See Brooke, effectual means of recovering their possessions, and Damages too Firzherbert, against Diffeisors, Abators, Intruders on their Inheritances, & Rastals A-Freeholds; of for exemplary punishment, fining, imprisonment of bridgments, the D. Seifors, Abaters; but no means of recovery at all for Title, Diffeiour dithinherited, dispostessed Kings or their heirs against fin, Abate-Intruders, Usurpers of their Crowns; nor punishments a- ment, Foreible Entries, gainst them, their Consederates, or Adherents, if our Affize, Im-Laws concerning Treasons extend not unto them, though prisonment, Kings de jure, but only to Ufurpers de facto, et non de jure; Intrusion, &c. and if the Statute of 1 1 H.7. exempt them from all kinds of penalties, forfeitures by the lawfull King, when he regains polletion of the Crown; as some now expound them. 41v, It is relolved both by our (1) Stainles, Judges, Law- (1) 1 E. 4. n. books, over and over: That there is no Inter-regnum in our 10, 11. 1 Jac. hereditary kingdom, or any other: That fo foon as the rightfull c. 1. Cook 7 hereditary King dies, the Cown and Realm immediatly de- Calvins case, scend unio and are actually vested in the person and possession & fol. 30, 31. of the right heir, before either he be actually proclaimed or Cooks 3 Incrowned King; and that it is high Tres fon, to attempt any flit, f. q. thing against his Person or royal authority before his Coronation, becanfe he is both King de jure, & de facto 100 : as was adjudged in Wasfons and Clerks cate, Hill. 1. Jacobi: Hence upon the death of (2) King Henry the 3. though (2) Mar. West. Prince Edward his heir was abient out of the Realm in An. 1272. p. the holy wars, where he received a dangerous wound by Walfingham, an affaffinate, and was not certainly known to be alive; Holinthed, yet all the Nobility, Clergy and people going to the high Daniel, Speed Altar at Westminster, Iwore fealty and allegeance to him Grafton, Baas their King, appointed a New Seal and Officers under ker, 40, 1 E, him, qui thefaurum Regis & pacem regni fideliter cu-Stodirent : Sicque pax Novi Regis Edwardi in cunttis finibus (3) Prarce. regni proclamatur; Edwardo fidelitatem Jurantes; qui frvi . Regis, c.8.13. veret penitus ignorarunt. Befides it is both enacted refolved Stami, Prerog. c. 14.f. 40.C. 24 in our (3) Statutes, Lawbooks, That Nullum tempus occur - f. 72. See all the Books cited in Albes Tables, Tir, Intrusion, Prarogative 22. Britton, f. 88: Littleton ica, 178, Cooks 1 Inftir f, 119. Cook 7 Rep. f. 28.

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ret Regi: and that when the King is once in legal policifion of his Crown Lands, or any Lands holden of him by reason of his Prarogative, he who enters or intrudes uppon them, shall gain no freehold thereby : yea, if the Kings Tenant dieth, and his heir enter into the lands his ancestors held of the King, before that he hath done his homage and received (eisin of the king, though he hath a right of inheritance to the Lands by Law, yet be shall gain no freehold, and if he die, yet his wife (ball not be indowed, because he gained no freehold, by his entry but only a nated poffefsio; much les then shal a meer Intruder gain any Freeheld or interest in the Crown or Crown lands it felf, to the prejudice of the rightfull King or his heirs; This is most evident, by the facred presidents of K. Dav'd, Hill King, when unjustly dispossessed & driven out of his kingdom by his unnatural Son Absolon, who made himself King de facto: (who was yet a traytor with

all his Adherents, and came to a tragical end) 2. Sam. It Kings 1. 2. c. 15. to c. 20. by the case of " Adonijah the Usurper and his Adherents, flain and degraded as Traytors; and of the Usurper Athaliah, who had near 7. years possession of the Throne, and flew all the blond royal, but Ioash; yet was thee dispossessed, flain as a murdirer; traytor, usurper, and Ioash the right heir set upon the Throne, and crowned King by Jehoiada the high Priest, the Captains and Rulers of the host, and Officers, people of the Land who all rejoyced and the City was quiet after that they had flain Athaliah with the finozo; 2 Kings 11. 2 Chro. c. 23. And as this was Gods Law amongst the Jews : So it was the antient

Law of England, under the antient Britons; as is evident (c) Mar, West, by the case of the Usurper Vortigern, (c) who af er his U-An. 445. to 467. See Ho-furpation of the Crown by the murther of two rightfull linshed, Graf-Kings, Constantine and Constance, and near 20 years polton, Speed, session by usurpation; the Britons calling in and crowning & others in Aurelius Ambrosius the right heir, for their lawfull King, their lives. Galtridus Mo- he was profecuted by him, as a Traytor both to his Father numerenlis, and Brother, whom he caused to be murdered to gain the Crown, & Ponticus besieged, assaulted and burnt to death in the Castle of Geno-Verunnius: riam in Wales with all his adherents that were in ir. Hift, 1,6,7,8,

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This Law continued not onely under our Saxon Kings, but English 100: as is evident by the case of † Qu. Mand, † See Hoverequited a lawfull Queen, notwithstanding the usurpation, gensis, Mar. Coronation and actual possession of King Stephen in her Paris, Mar. absence; (d) all whose grants of the Crown lands were Westminster; resumed by her Son King Henry the 2. and King Stephens Bromton, Charters and Grants of them, resolved null and void against Daniel, Ho-king Henry, because made by a Usurper, and Invader of the lychronicon, Crown.

Fabian, Baker Stow, Speed,

in the life of King Stephen, and Henry 2. (d) Gulielmus Nubrigentis, lib, 2. cap, 2. Chronicon Johan. Bromton, col. 1044.

(e) King John in the year 1216. Was renounced by (e) Mar. West. most of his Nobles, Barons, people, who elected, crown-Mat. Paris, An. ed, and swore allegeance to Lewes, as their King; and dischronicon, possessed King John of all or most of the Realm : who Fabian, Danithereupon, at his death, cum summa mentis amaritudine, el, Holinshed, maledicens, & non valedicens umnibus Baronibus suis, pauper Grafton, Speed, in K. & omni thefauro destitutus, nec etiam tantillum terra in pace John, & H. 3. reimens, ut vere JOHANNIS EXTORRIS, diceretur, ex hac vita miserrime transmigravit; Henricum primoge. nitum fuum REGNI CONSTITUENS HÆREDEM; Yet no looner was he dead, though Lewes was K. de facto, and that by the Barons own election, who called him in and crowned him; but Gualo the Popes Legat, and mamy of the Nobles and Peop'e a "embling at Glocester, there crowned Henry his Son, for their true and lawfull King at Glocester, cogente necessitate : quoniam Westmonasterium, ub: locus est ex consuetudine regia consecrationis deputatus, tune ab inimicis suis fuit obsessum. After his Coronation he received the homages and fealties of all the Bishops, Earls, Barons, and others present at his Coronation, (f) Sicque Nobiles Universi & Castellani, co multo fidelius (f) Mat. Paris. quam regi Johanni adhaferunt, quia propria patris iniquitas, P. 278. UT CUNCTIS VIDEBATUR, filio non debust imputari, After which most of the Nobles and English deferting Lewes, submitted themselves to Him? as their lawfull

Soveraign;

Soveraign, routed the French forces, belieged Lewes in London, forced him to swear that he would depart the Realm, and never to return more into it during his life, and presently restore all the Lands and Castles he had taken in England, by warr, and resign them to King Henry: Which he accordingly performed. Most of the Barons who adhered to Lenes, and submitted themselves to King Henry, were by agreement reflored to all their rights, inheritan-(g) Mat. Paris, ces and Liberties: But (g) some Bishops, Abbots, Priors,

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p. 188. Mat. Weft, p.106.

Secular Canons, and many Clergy-men, qui Ludovico & Baronibus consilium prastuerant, et favorem, and continued obstinate, were excepted out of the composition between King Henry and Lewes, and thereupon deprived of their livings, goods, and forced to make fines and compositi. ons, for adhering to the Ulurper Lewes, though King de facto for a season. Therefore a King de facto, gets neither a legal freehold against the King de fuie, or his heirs; nor can he indemnify his adherents against his Justice, who are fill Traytors by adhering to him though crowned: and the King de jure may punish them as such. 51v, Since the Statute of 25 E. 3. (which altered not the Law in this point before it) in the Parliaments of 1 E.4. rot. Parl. n.

(h) See An Exact Collection,p.670, &c.

8. to 37. 4 E. 3. n. 28. to 41. 14 E. 4. n. 34, 35, 36. 671,072,677, King Henry the 6. himfelf, (though king de facto for 39. years, and that by Act of Parliament, and a double descent from Henry the 4th, and 5th, Usurpers and Intruders) together with his Queen, and fundry Dukes, Earls, Barons, Nobles, Knights, Gentlemen who adhered to him in his wars against Richard Duke of Yorke, and Edward the 4th, King de jure; were all attainted of high Treason, all their lands, goods, chattels forfested, some of them executed as Traytors, for adhering to Henry the 6. and affitting him in his wars against Edward the 4th. king only de jure, it being adjudged High Treason within the Statute of 25 E.3. against Sir Edward Cooks fond opinion to the contra-As for the Year-book of 9 E. 4. f. 1. b. that the King de jure when restored to the Crown, may punish Treason against the king de facto, who usurped on him, either es in

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ther by levying warr against him, or compassing his death, it was no farr from being reputed Law in any age, being without and against all Presidents) or in King Edward the tourths reign, that those who levied war against Henry the 6. were advanced, rewarded as loyal Subjects, not punished as Traytors for it, by King Edward the 4th, when actually King; It being not only a disparagement, contradiction to the Justice, Wildom, Title, Policy, and dangerous to the person, fatety of any King de jure, to punish any of his Lieges, Subjects for attempting the destroying, depoling of an Usuper of his Crown, and Archiragior to his person; but an owning of that Usurper as a lawfull King, against whom high Treason might be legally committed, and a great discouragement to all loyal Subjects for the future, to aid him against any Intruders that should attempt or invade his Throne, for fear of being punished as Traytors, for this their very loyalty and zeal unto his lafety. Moreover all the gifts, grants made by Henry the 4, 5, 6. themselves; or in and by any pretenced Parliaments under them, were nulled, declared void, and resumed, they being but meer Ulurpers and kings de facto, not de jure. 6ly, It is the judgement, resolution of (a) learned (a) Plutarchi Polititians, Historians, Civilians, Canonists, Divines, as well Poplicola, Bo-Protestants as Papists, Jesuites, and of some (b) Levellers, monwealth, 1. in this age, that it is " no Offence, Murther, Treaton at 2.c. 5. Cicero " all by the Laws of God or men, but a just lawfull, com- Orar. pro T. " mendable, heroick, righteous, and meritorious action, Ann: Milone, " to kill, destroy, dethrone or wage warr against a profes Aquinas de Regimine "led Tyrant, especially such a one who invades his law- Principum "full Soveraigns Throne, Crown, by perjury, treaton, l.t. c 6.2Dift. "force, regicide, expulsion, deposition, or assassination artic. 44. qu. " of his rightfull undoubted Soveraign, against his duty, 2.2.5 m. E-"and allegiance, without any colour of just Title to the sphorism, "Crown. And this they hold unquestionable, when done verb. Tyran.

nus, Mariana

de Rege & Regum Instit. I. 1. c. 5,6,7,8. Buchanan de Jure Regni apud Scotos: & Rerum Scot, Hift, Junius Brutus Vindiciz contra Tyrannos, quaft, 2,3. Grotius de Jure Belli, 1,1, c. 4. (b) Regal Tyranny Discovered : Killing no Murder,

" either by command or commission from the King de jure, or his rightfull heir or fuccessor, though out of actual " possession; or out of meet loyalty and duty to restore "them to the just possession of their Thrones, or to free " their Native Country from the mileries, oppressions, " wars, murders, bloudsheds, and apparent destruction " occasioned by his Usurpation of the Crown; " which is warranted by the prefidents of Athaliah 2 Kings 11. & 2 Chron. 23. and of Zimri, 1 Kings 16. 8. to 23. recorded in Scripture, with hundreds of examples in other Histories of all ancient and modern Empires, kingdoms. Besides, when the usurping King de facto is removed, dead, destroyed, and the king de jure, or his right heir, re-(c) Littleton, fored by way of (c) remitter to the actual possession of

sed. 659, &c. the Crown, in disaffirmance of the usurpers right and possession, they are in the selflame plight and condition in Law, as if they had never been ulurped upon or dispossesfed of the Throne. Therefore the King de jure can neither in Law nor Justice when remitted, punish any such attempt against the king de facto, as Treason; it being no Treason in it self, and the Usurper no lawfull king at all, but the very worst and greatest of Traytors, whiles a Usur-So that g E. 4. f. 1 .b. can be no Law at all, but a most gross absurdicy. 7ly, It is a Principle in Law, that no (d) Diffeifor, Trespaffor or Wrong -doer, shall apportion or 237,238,240, take advantage of his own wrong, in the case of a common

person: much less then shall the Usurper of the actual

(d) Lir. fect. 461. Cooks 1 Inflir, f.271, possession of his lawfull Soveraigns Crown, being the 2.9 H. 7. 21.

highest Offender, Traytor, Wrong -doer, take advantage to secure himself or his adherents, by his wrongfull, trayterous possession, against the Statute of 25 E. 3. or the ax (e) See here , of Juftice. The rather, because this (e) Statute was 278,281,333, made, and the Treasons therein specified, declared and 324, 327, 328. enacted to be Treaton by King Edward the 3. and most of of those Lords, who in the Parliament of 4 E. 3. (but 21. years before) at this Kings request, and by his affent, declared, adjudged, condemned, executed Roger Mortimer, and his Complices as Traytors, guilty of HIGH TREASON

P. 275, 276.

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for murdering King Edward the 2. his father, after he was deposed in Parliament, because he was still king de jure, though not de facto: Therefore they most undonbtedly resolved the king de jure, though not regnant, to be a King within that A&; not the king de fatto, without right or title, as Sir Edward Cooke erroniously afferts. 8ly, If the imagining or compassing the death, or deposing, or imprifoning of the King declared by overtact, or rearing war against him, or adhering to his enemies, by any ambitious Usurper, be High Treaton within this Act, for which he and his adherents shall lose their lives, lands, estates, and fuffer as Treytors, though he never actually kill, depole, imprison or disposses the King of his actual Regal power, (f) Spelman. as the (f) Council of Calcbuth, Ap. 787. cap. 3. The Coun- Concil. p. 297. eil of Enham, An. 1009. cap. 26. With all our antient gar. *Laws, Lawbooks, Lawyers cited by Sir Edw: Cook in his 3. * Bromton, Infit. c. 1, 2. the Statutes of 25 E. 3. all our (g) other Chron, col. Atts concerning Treason: and the forecited Judgements, (g) Raftals Prefidents in Parliament, with others in Queen Eliza- Abridgment, beths reign abundantly evidence: Then it is much more Tir. Treason, High Treason in the highest degree within the letter, in- See Crookes tention of all theie Laws, actually to usurp and get pof Reports, p. fession of the Crown by levying warr against, and impri- 583, foning, degrading, expelling, banifling or murdering the lawful King himself, and de priving him or his right heir of the possession of the Crown; there being a complication of all the highest Treasons involved in an actual usurpation, and a greater damage, prejudice to the King, kingdom, than in a fuccessless attempt alone, which proves abortive, and is quickly ended. And if so, then such an Arch. Traytors actual usurpation of the Crown, must by consequence be so far from indemnifying him, or mitigating, or explating his Treasons, that it doth aggravate them to the highest pitch, and expose him and his adherents to the highest penalties though king de facto, and that both (h) 2Kings 11 by the Law of God himself; as is evident by the cases of 2 Chron. 33. (b) Athaliah, and of (i) Baasha, who conspiring a-25.1031,6.16. gainst and slaying his Soveraign Nadab, son of Jeroboam, 1, to 21, Qqq2

and then reigning in his Stead, smote all the House of Jeroboam, not leaving to him any that breathed, according to the laying of the Lord : yet because he provoked God to anger

with the works of his hands in being like the House of Jerobo-* Kings 16. am, * and BECAUSE HE KILLED HIM; his fon Elah (who reigned in his stead two years) was by Gods retaliating Justice Rain by Zimri : who reigning in his stead, asson as he fat on the Throne , sem all the bonse of Baasha, fo that he left him not one that piffed against the wall, neither of bis kinsfolks nor of his Friends, according to the word of the Lord which he spake against Baasha by Jehu the prophet. When Zimri bad thus reigned by Usurpation, bloudshed but 7. days, all the people of Israel that were incamped against Gibethon, hearing that Zimti had conspired and also flain the King, made Omri, Captain of the host, king over Israel that day in the camp: who presently all marched from Gibethon to Titzah, & besieged Zimii in it; where he was burnt with fire in the Kings bouse, and died for his sins, and THE TREASON which he wronght. All these Usurpers, though kings de facto, and Gods special instruments to punish and cut off other evil Kings and their families (who usurped the Crown of Ifrael and kept the 10. revolting Tribes from the house of David to whom God had annexed them at first, till rent from it by Jeroboams rebellion for Solomons fin) were yet Traytors still in Gods and mens account, and thus exemplarily flain and punished as such. The like Examples we find in the Gothish and Spanish Histories, every such actual Invader of the Crown, qui regem nece attractaverit, aut potestate Regni exuerit, aut prasumptione tyrannica regni fastigium usurpaveru; being condemned and for ever accurled excommunicated with the highest Anathema that can be inflicted, by the (k) 4. Council of Toledo, can. 74. and also by

(k) Surius Concil. Tom, the 5. Can. 2, 3, 4, 5, 6. The like prefidents we find in 2. P.736,737, the Histories of the Roman Emperors, of the kings of Denmark, Poland, France, Scotland, and other Realmes, 739.

where Usurpers of the Crown, though in actual possession, have been oft times flain and executed as the archest Traytors by the rightfull Kings or their heirs, or the No-

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bles and people of these Realm; their postessions of the Crown, being no expiation of their Treasons, Regicides, but an (1) aggravation of them, both in Law and Gospel ac- (1) I Kings count, unable to fecure their heads, lives, by their own Law 21. 19. Mar. and concession, fince the actual coronation, unction and 41. possession of the kings de fure whom they murdered, deposed against their Oaths, allegeance, duties, could neither preferve their crowns, persons, nor lives from their violence and intrusion. To omit(m) he hanging up of Iohn (m) Chytrzi of Leyden, who crowned himself a king, with his compa- Chron, 1, 14. nions, for Traytors, at Munfter, An. 1535. with all anti- Sleidans ent domestick prefidents of this kind among our British and Saxon kings:it is very observable, that in the (n) Parlia- (n) An Exact ment of 1 E. 4. D. 17, 18. Henry the 6. though king de abridgement, facto, together with his Queen, Son Edward Prince of p.670,666, Wales, the Duke of Somerfer, and fundry others, were at- 667 tainted of high Treason, for killing (o) Rich. Duke of York (o) See here, at Wakefield, being only king de jure, and declared heir and 76. successor to the Crown after King Henry his death; in the Par-Gament of 39 H. 6. n. 18. though never crowned, and not to enjoy the possession of it during the reign of King Henry: yet Henry the 6. his murder after his deposition, was never inquired after, though king de facto for fundry years, and that by descent from 2. usurping ancestors, nor yet reputed Treaton. After this (p) king Richard the 3d. u- (p) Graficus furping the Crown, and enjoying it as king de facto for 2. Chroniele, p. years, 2. moneths, and one day; was yet flain in Bofworth 852. Hall, field, as an usurping bloudy Traytor, stript naked to the skin, Holinshed, . without fo much as a clout to cover his privy members, all Speed, and sprinkled over with mire and bloud, then trussed like a Hogg or life. Calf behind a pursuivant, and ignobly buried. Sir Williams Caresby a Lawyer, one of his Chief Counsellors, with divers others, were two dayes after beheaded at Leicefter, as Traytors, notwithstanding he was king de facto; and no doubt had not king Richard been flain in the field, but taken alive, he had been beheaded for a Traytor, as well as his adherents, being the principal Malefactor, and they but his instruments; So that his kingship and actual polleliion:

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settion of the Crown by intrunon, did neither secure himself nor his adherents from the guilt or punishment of
High Treason, nor yet the Act of Parliament which declared him true and lawfull King, as well by inheritance and
descens, as election; it being made by a packed Parliament
of his own summoning, and ratisfied only by his own royal
assent; which was so far from justifying, that it did make
his Treason more heinous in Gods and mens esteem; it
being a framing of mischief, and asting Treason by a Law,
Pial. 94. 20, 21. which God so much abhors, that the
Pialmist thence insers, v. 23. And the Lord shall bring upon them their own iniquity, and shall cut them off in their own
wickedness; yea, the Lord our God shall cut them off: as he
did this Arch bloudy Traytor and his Complices, though
king de facto by a Law.

9ly, Since the Statute of 11 H.7. c. 1. (some clauses whereof, making void any Ast or Astroffueure Parliaments and Legal process against it, are meetly woid, unreasonable, and nugatory, as (i) Sir Cook himself affirms of Statutes of the like nature) there have been memorable Presidents, Judgements in point against his and others false glosses on it in favour of Usurpers, though King or Queen de fasto, and their Adherents, against the lawfull Queen and heir to the Crown, which I admire Sir Edward Cooks, and other Grandees of the Law sorgot, or never took notice of though so late and memorable.

(i) 4 Instir. P. 42.

King (k Edward the 6. being fick and like to dye, ta-(k) Fox'Adsking notice, that his Sifter Queen Mary was an obstinate & Monu-Papist, very likely to extirpate the Protestant Religion, ments, Vol.3. deltroy that Reformation which he had established, and p. 6. to 37. usher in the Pope and Popery, which he had totally aban-Holinshed, doned, by advice of his Council instituted and declared by Grafton, Speed, How, his last will in writing, and Charter under the Great Seal Stow, Baker of England, the Lady Jane (of the bloud royal, eldeft Neice Sir John to King Henry the 8, a virtuous Lady and zealous Pro-Heyward, and others, in teltant, without her privity or feeking) to be his beir and Edward the Successor to the Crown immediately after his death; for the 6. & I Marix, better confirmation whereof, all the Lords of his Privy

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Council, most of the Bishops, Great Officers, Dukes, Earls, Nobles of the Realm, all his Judges and Barons exept Hales, the Serjeants and great Lawyers, with the Mayor and Aldermen of London, Subscribed their Names, and gave their full and free affents thereto: wherupon immediately after King Edwards death, July 9. 1553. Iane was publikely proclamed Qu. of this Realm, with found of trumpet, by the Lords of the Council, Bishops, Judges, Lord Mayor and Aldermen of London : So as now the was a Queen de facto, backed with a very colourable Title from King Edward himself, his Council, Nobles, Judges, and the other subscribers to it, being likewise eldest Neccesto King Henry the 8. of the blond royal. For defence of her person and Title when proclamed Queen, and to suppress Mary the right heir, the Council speedily raised a * great * Inferre vint, power, of 8000 foot, and 2000 horse, of which the Duke corum est, qui of Suffolk was first made General, being her Father, but abique confifoon after the Duke of Northmberland by Commission from lio: Praterea the whole Council in Queen Janes Name, who marched fi quis violenwith them to Cambridge, and from thence to St. Edmunds ter audear a-Bury, against the Lady Mary, Oneen only de jure, not de gere, non facto. But many of the Nobles, and the generality of the focis, qui vepeople inclining to Queen Mary the right heir, and re- ro persuadere forcing to her ayd to Fotheringham Caftle; thereupon the potett, nullis, Council at London repenting their former doings, to pro. Minophon Mevide for their own fafety, on the 20. of Jane 1553. procla- 1. p. 713. med Mary Queen; and the Duke of Northumberland hearing of it, did the like in his Army, who thereupon deserted him. From which sodain alteration, the Author of Rerum Anglicanaru Annales, printed Lond. 1616. 43.p. 106. hath this memorable observation. Tali tamen & constanti veneratione nos Angli legitimos Reges prosequiniur, ut ab corum debito obsequio nullis fucis aut coloribus, imo ne Religionis quidem obtentu, nos divelli patiamur : cujus rei Jana hic casus, indicium poterit esse plane memorabile. Quamvis enim Dominationis illius fundamenta validissima jacta fuiffent, cuiet funema arte superftructum est , quan primu n tamen Regni bera et indubitata bares fe Cibibns often-

Dit, omnis hac accurata structura concidit illico, & quasi in ictu oculi dissipata est: idque eorum pracipue opera, quorum propter Religionis causam propensissimus favor Janz adfuturus (perabatur, &c. * All the Martyrs, Protestant Bi-

* Fox Act, & rus sperabatur, &c. * All the Marsyrs, Protestant Bi-Mon. Vol. 3. shops and Ministers, imprisoned and burnt by her: hum-P. 101, 102. bly teausing, and in the bowels of our Lord Jesus Christ be-

bly tequiring, and in the bowels of our Lord Jesus Christ beseeching all that fear God, to behave themselves as obedient Subjects to the Queens Highness, and the superiour powers which are ordained under her, rather after their example to give their heads to the block, than in any point to rebell against the Lords anointed, Queen Mary: in no point consenting to any Rebellion or fedition against her Highness; but where they cannot obey, but must disobey God, there to submit themselves with all patience and humility to suffer as the will and pleasure of the higher powers shall adjudge. Against the doctrine, practice of some new Saints of this iron age, who will ward off Christs wooden Cross, with their iron swords, and rather bring their Soveraigns heads to the block, than submit their own heads unto it for their very Treafons, and Rebellions against them. So farr are they from believing, practifing the very first Alphabetical Lesson of our Saviours prescription, and real Christanity, Mat. 16. 24. If any man will come after me, let him deny himself, and take up his cross and follow me.

The Duke of Northumberland for that he was appointed General of the Army in this Quarrel of the Lady Jane, though Queen de facto, was arrested of High Treason, together with 3. of his Sons, the Marquest of Northampton, the Earl of Huntindon, with sundry Knights, Gentlemen, and sent prisoners to the Tower of London. The 16. of August next following, the said Duke and Nobles were publikely arraigned of High Treason, in Westmunster hall before Thomas Duke of Norfolk High Stemard of England: being brought to the bar, the D. used great reverence to his Judges, professing his faith and allegiance to the Queens Ma-

(a) Grafions jesty, whom he confessed he had griegously offended, saying (a) Chronicle, P. that he meant not to speak any thing in defence of his fact, but 1326. would first under stand the opinion of the Court in 2. points.

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1. Whether a man doing any Alt or thing by authorusy of (a) Graftons the (a) Princes Councel, and by Warrant of the Great Seal of Chronicles, p. England, and nothing doing without the same, may be charged with TREASON for doing anything by such Warrant? Which question was grounded on this very Statute of 11 H.7.c. 1.

2. Whether any such persons as were equally enlyable in that crime, and those by whose Letters and Commandment he was directed in all 185 doi: 1959, might be his Indges, or passe uson

his Tryal, as his PEERS?

To the 1. was answered (mark it) That the Great Seal ke had for his Werrant . was not the Seal of the Lawfull Du. of the Realm, nor p. feaby her Authority but the Seal of an Asurper, and therefore could be no Wars rant to bim.

To the 2. That if any were as deeply to be touched in that Case as himself; yet so long as no attainder was of Record against them shey were nevertheless persons able in Lawto pass upon any tryal, and not to be challenged therefore, but at the Princes pleasure. After which the Duke and the rest of the Lords using but sen words, declaring their earnest repentance, and imploring the Queens mercy, confessed this Indistment of Treason, and thereupon had sudgement passed upon them as Traytors; And the Duke (with Sir Iohn Gates and Sir Thomas Palmer) were accordingly executed on Tower Hill, August 22. confessing the suffice both of their sudgement and Execution, as TRATIORS, and not justifying themselves by the Astrof 11 H.7.

After this (b) Archbishop Cranmer though at first, (b) See Anhe resuled to subscribe K. Eds. will to dis inherit Queen Brit. & GodMary, alleging many reasons against it, yet was commit-win in his
ted Prisoner to the Tower, indicted arraigned, condem-Life; Fox,
ned of High Treason in November following for aiding the Graston, HoEarl of Northumb. with Horse and Men against Queen linsh. Speed,
I Mariz.

Mary: And Queen Jane hersell, though Queen de facto, & meerly passive, not active in this case, never aspiring after the Crown (being proclaimed Queen against her will) with the Lord Guyldford her husband, were both indist-

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ed, arraigned, condemned of High Treason, and accordingly executed as Traytors, Feb. 12. I Marie, the one for ulurpation of the royal Estate AS QUEEN OF ENGLAND: the other as principal adherent to her in that case; both of them confessing, that BY THE LAW THEY WERE JUSTLY CONDEMNED. After which the Duke of Suffolk her father, and fundry others were condemned of High Treason, executed upon the same account; and that by the judgement of all the several Peers, Nobles, Judges, Lawyers, and Great Officers of Engl. (though guilty of the same crime) seconded with the Judgement of the whole Parl. of I Mar.c. 16. which confirmed their Attainders as JUST and LEGAL, notwithstanding the Statute of 11 H.7.c.1. which extends only to indemnifie chose Subjects who doe their true butp and ferbice of allegiance. to their King and Soveraign Lord; which none certainly do who adhere and joyn with an apparent Usurper in possession against their lawfull undoubted King and Soveraign Lord, as they here adjudged, and the Parliaments of 1, 4 and 14 of King Edward the 4th. long before: no Acts of Parliament whatfoever being able to fecure Usurpers Titles, though Kings de facto, to themselves or their posterity, or to lave their own or their adherents Heads from the block, or their estates from confication, as the recited tragical Prefidents and Judgements prove, against the absurd opinions of many Grandees of the Law in great reputation; who take all Sir Edward Cooks and others Dotages for Oracles, and well deferve a part in Ignoramus, for being ignorant of these late notorious Judgements and authorities against their erronious opinions, wherewith they feduce their filly Clyents and young Srudents of the Law to their great peril, for whose better information, I have the larger infifted on this point, to rectifie this dangerous capital mistake, which may hazard both their lives, estates, and souls to boot. much in answer to the objected Presidents of Edward and Richard the 2d. to prove the Commons Right of Judicature in Parliaments, &c. As good an evidence as that

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grave Sir E. Cook produceth, to prove this House of Commons + 4 Inflit. p. (who had no * Journal Book till I Ed. 6.) to be a distinst 28. Court of Indicature, because upon signification of the Kings Mr. Hackpleasure to the Speaker, they do and may proroque or adjourn wills Epistle themselves, and are not prorogned, adjourned by the of passing House of Lords. By which reason he might prove every Bills. Committee of the Lords or Commons House to be a distinct Court, because they may adjourn and prorogue themfelves without the House, and all Commissioners for examination of Witnesses, Charitable uses, the petty Sessions of Justices of Peace, all Country Committees, Archdeacons and other vifitors, all Auditors of Accounts, Arbitrators, Referrees, &c. to be Courts, because they may all adjourn themselves from one day and place to another: when as their presenting of their own Speakers in, and the Kings calling them into the Lords House at the beginning and end of every Parliament, or Session, and at 4 33 H. 8, c. the patting of Bills, and their dissolution in the Lords 21, Mr. Hack-House, is a stronger argument to prove them no Court at will of pasall, at least of Judicature, than their adjournment or fing of Bills. prorogation of themselves, to evidence them to be a di- P. 76, 77. Stinct Court from the House of Lords.

Should I here subjoyn to the premises all the cases extant in the Lords Iournals and Parliament Records, evidencing the Lords real Jurisdiction, proceedings and Judicature in civil causes, in the reigns of King Ed. the 4. Richard the 3. Henry the 7. and 8. Queen Mary, Queen Elizabeth, King I ames and King Charles, I should be over tedious to the Readers, I shall therefore only trou-

ble you with 2 cases more.

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In the (f) Parliament of 18 Elizabeth, there arole a question about place and precedency in the case of the holders Grand Lord de la Ware: upon debate thereof in the Lords House, Inquest p. 29.

ALL THE LORDS except the Lord Windesore AD. See Mr. HakINDGED, that he should have place next after the Lord wills passing of Bills, p. 80.

ed to acquain the Queens Majesty with this determination of the Deers, and to know her pleasure concerning the lame.

Refer 2

In the last long Parliament Paich. 20 Caroli, this cale of Note and Consequence, was adjudged by the Lords (against the late resolutions of some Judges, touching the Jurisdiction of the Admiralty Court) between Fairfax and le Gay, and Mr. Johns a London Merchant. In Lens Vacation 1638.Mr. lohns libelled in the Admiralty against one Hopper for 26000 weight of Barbadoes Tobacco, fold to him, at St. Maloes in France, in part bus transmarinis in . fra jurisdictionem Admirahasis Anglia, by one B les factor to Hooper for fraight due unto him by Hooper for his Ship called the William and Anne, whereof lohns was owner, without alleging, that this fale and contract was made Super alium mare: Fairfax and le Gay became sureijes for Hooper in the Admiralty; Johns had a sentence against Hooper in the Admirally upon this Libel, who foon after became a Bankrupt. Whereu, on Fairfax and le Gay his fureries, appealed to the Delegates to avoid the sentence and execution against them, and then moved in the Kings Bench for a Prohibition to flay the fute; suggesting the contract to be made at Sr. Maloes upon the land, and not Super altum Mare; and so not within the Jurisdiction of the Admiralty; Upon which they procured a rule to flay the Proceeding; Whereupon Johns petitioned the House of Lords for relief against this rule, and that the Delegates might proceed to give sentence upon the Appeal, that to he might have execution against the fure-Hooper being a Banksupt for above one hundred thousand pounds, and all his estate sold, so as his debt would be wholly loft if he should be deprived of the benefit of his sentence, to which the sureries were liable. Upon his Petition this point in Law amongst others whereon the hinge of his case turned, was argued at the Lords Bar by Mr. Serjeant Rolls, & Mr. Maynard for Fairfax and le Gay, and by my felf for Johns. Whether the Admirals Court had any true, antient, legal Jurisdiction of Contracts made at St. Maloes, and other parts beyond the Seas, between Merchants and Mariners touching their Merchandise and marine offairs upon the Land, as well as on the Sea? lure-

Sure the S and t and Repo prov 16,2 Ann: King dile mira the p 143 the I of 4 1. T tillt

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Sureries Countel argued confidently they had not, upon the Statmes of 13 R. 2.c. 5. 15 R. 2.c. 3. 2 H. 4. C. 14. and the Prefidents cited in Sir Ed. Cooks 4 Instit. p. 1 24. and c. 22. of the Court of Admiralty, and in Hubberts Reports f. 3 3 1 . But I argued to the contrary, and clearly proved by the Laws of Oleron , L ex 1, 2, 6, 8, 9, 10, 15, 16, 22, 23. made in the reign of King Richard the 1. Anno 1190. ratified under the Seal of that Island by that King, confirmed and used by Henry 3. Edw. 1. and pradiled ever fince as the Law of the land in the Court of Admirally, as (g) Sir Edward Cook himfelf afferts) and by (g) I Inflic. the notable Record of 22 E.I. in Cooks 4 Institutes p. 142, t. 11. b. 260. 143, 144. and Seldens Mare Claufum, 1. 2. c. 28, f. 275. the Black Book of the Admiralty, & the Parliament Roll of 4 H. 4. n. 47. for confirmation of the Laws of Oleron: 1. That the Admiralty in all ages fince King Rich. the 1. till the making of these Statutes, and ever fince (till (h) Cooks 4 Hill. 2 Jacobi C. B. between Tomlinfon Plaintif, and Inftit. p. 139. Philips Defendant) had held Jurisdiction of such contracts between Merchants and Mariners, made upon the land in forein parts, as well as on the Sea: as the (i) Marshall had always used to hold plea of Contracts, and deeds of (i) 48 E. 3. 23 Arms, Warr, Treasons, Murders and Felonies out of the 3. 13 H. 4. 45. Realm, which cannot be determined by the Cammo Parl, n. 31. Law: And that without any Prohibi ion granted to flay 13 R. I. Star. the proceedings in all that large tract of time, both be- 2. c. 3. 1 H.4. c. 14 Cooks fore and fince thefe Statutes.

2ly. That these Acts were made only to restrain the 4 Institutes, Admirals, Incroachments of Jurisdiction, in Contracts, 21 E. 4, 17. Pleas, Quarels, & other things made or done by Laudor Water, within the Bodie of the Counties of this Realm, or in any Port, Harbor, Haven, or Creek within the Counties, the Counsance whereof properly belonged to the Kings Courts, or to the Courts of Cities, Burroughs, and other Lords, and to 76. Br. Admiralty, 1.

Plowden , f, 37 b, (cook , Report , f, 106 , 107.

confine them only to such contracts and things within the Realm (whereof the (k) Sea is a part, being under the Kings 1. 2. c. 24 f. D.mision and Lord (hip) as are made or done upon the Sea, not 56, 57. 6 R.z. upon the Land or Water in any Haven, Port, River, Fitzh. Prote- Creek within the precinct of any County : but not to debar Rion 46.7 R, them in the least degree of their antient, undoubted juriidiction they always had and exercised de Jure, without Trefpals 52. Temps Ed, r. complaint or restraint, in contracts of Merchants and Ma-Fitz Avowry riners made upon the Land in forein parts beyond the 192. Cook 1 Seas, of which the Kings Common Law Courts, and the Instir. f. 260. Courts of other Cities, Burroughs, Ports, Lords, (1) never 143, 144 Rot, had nor could have the least Jurisdiction, fince out of the Pat. 51 H. 3. Realm, and no Jury de Vicineto could be thence awarded m. 11. Ror. or summoned to try the Contract in England: which I Scotix, 10 E. proved by the Parliament Rolls and Commons Petitions, Parl. 46 E. 3. Whereon thefe Statutes were grounded, being moft expreis in point , as 13 R. 2. Rot. Parl. n. 41. 14 R. 2.D. m. Io. Rot. Parl. 8 H. 5. 37. 15 R. 2. n. 30. 2 H. 4. n. 89. 4 H. 4. r. 47. 11 H.4. n. 3. Artic. 6. p. 61. compared with a 5. n. 61. compared with 27 E. 3. c. 13. 2 R. 2. c. 4. 92 H. Seldens Mare 1. 01. compared with 27 2. 3. c. 13. 2 K. 2. c. 4. 32 H. clausum, 1. 2. 8. c. 14. 5 Eliz. c. 5. 27 Eliz. c. 27. which so interpret Rot, Parl, 14it, and by most of the Cases cited by Edward Cook in his E. 2. pars 2. Chapter of Admiralty, extending only to contracts made m. 26. dorlo. within the body of any County within the Realm, not in (1) 2 E. 2. Fitz, obligat, any forein parts on the Land or Sea, without or bewond the Realm, whereof the Comon Law Courts had never 16 Tr. 18 E. 3. Fitz, Teft. Jurisdiction before Sir Sir Edw. Cooke was Chief Juftice, 6 Tr. 13 E. 3. and that by a (m) meer fiction, and false contradictory sur-Fitz. Oblig. 12 38 E. 3. c. mile, contrary to truth, reason, Justice, Law, and the Let-4. 41 E. 3. 23 ter of Charterparts and Contracts themselves ; viz. that b. 48 E. 3. 3. they were made at St. Maloes, Burdeaux, Sevil, Dantzick Bro. Oblig. or Hamborough, in France, Spain, Denmark, or Germany, I. Farts 95. within the Ward of Cheape London, a suggestion never 13 H. 4. 3, 4. made before his time, in or by any Law-Book or Record, 10 H. 6, C, II. only to rob the Admiralty of its antient unquestionable 20 H. 6. 28. Bro. Oblig. right and Jurisdiction.

7. 21 E. 474. 6 R 2. c. 2. 13 R. 2. Stat. 1. c. 2. 26 H. 8. c. 13. 35 H. 8. c. 2. 28 H. 8. c. 15. 5 E. 6. c. 11. Cook 3 Inft. f. 112. 48. 2 Inftit. p. 51. 2 Rep. f. 93. 5 Rep. f. 107 2. (m) Dr. Ridlyes view of the civil Law 1. 3. c. 1. p. 129. Tr. 13 E.3. Fiz Abbe 12. 9 E. 3. 42. Dyer. 166.

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3ly, That the words of the Statule of 13 R. 2. c. 5. (whereon Sir Edward Cook and other Judges ground their Prohibitions to the Admiralty) That the Admirals and their deputies shall not meddle from benceforth, with any thing done within the Realm of England, but only of things bone upon the Sea, &c, are clearly strained and contrued by them directly against the words, meaning and intent of the Law-makers, and Commons Petition whereon it was mide : For the later claule; but ON- (n) See to E. LY of things done upon the Sea; is put in opposition and con. 1. Modus 1:tradifinition to the precedent words, with any thing done with - E. 3. 9. 2. 4E. in the Realm of England; or within the bodies of the Counties 3. 46. b. 7 8. as well by land as by mater; as the Stat. of 15 R.2.c.3. & 5 El. 2. 37 b. 8 R. c.5. 27 Eliz. c. 11. 25 E.3.c.2. directly interpret and ex 2. Contin. plain the sense thereof: And they strain and apply them R. 3.c.7. 4 H. to contracts made by Merchants and Mariners, not with - 7. c. 24. 28. in the Realm of England, or bodies of the Counties there. H. 6.3.2. Bro. of by land or water, but beyond the feas, and quite out Protection 11. of the Realm, being no part of the Realm, or within the ciament 4. body of any County of England, or Kings Dominions; 26 H. 8. C. 13. Than which a greater Solecism and contradiction cannot 35 H. 8. c. 2. be imagined against the scope and letter of these Statutes. 5 Ed. 6. c. 11. For by this construction, they may likewise strain the very Plowdens Com. 359 Oath of Supremacy, That no foreign Prince, Person, Prelate, Cook 8 Rep. State or Potentate hath, or ought to have any Jurisdiction, f. 10. 2 Inflir, power, &c. Ecclesiastical or Spiritual WITHIN THISP. \$16. Sel-REALM : With the Statute of 13 Eliz. ch. 2. for the dens Mare abolishing of the usurped Iurisaction of the Bishop and See of Clausum, p. Rome, WITHIN THIS REALM; and against raising Littleton, sedition, bringing in Bulls, Agnus Dei, Croffes, Pictures, &c. fedt. 677. WITHIN THIS REALCH; and other the Dominions 25 E. 34 C. 2. thereof: to the punishment of all such, as shall averr, that any forein Prince, Person, Prelate, State, Potentate, or the Pope, have or ought to have any Jurisdiction, power or Authority OUT OF THIS REALM, or the Dominions thereof; or shall raise any sedition, or vent Popes Bulls, &c. in any forein Kingdom or Country (as France, Spain, Italy, Poland, Germany) out of the Realm, as if they

had done it within this Keaim of England,

4ly, That by the opinion, resolution, agreement of the (o) See Crooks Judges of the Kings Bench, 1575. and of (o) all the Judges of Reports, p. England (where of Hutton and Crook were 2.) 4Febr. 1632.

296, 297. Hil. 8. Caroli, (the original whereof I produced subscribed with all their hands) If sme be commenced in the Court of Admiralty upon Contracts made, and other things personal bone beyond the Seas, or upon the Sea; no Dobibition is to be amarbed: (contrary to Sir Edward Cooks opinion)

This being the Judgment of all our Judges in former ages, wherein no record or president could be produced of any such Prohibition from Richard the 1. till the later end of Queen Elizabeths or King James his reign.

The Lords upon my Argument were to fully satisfied in this point of Law, that they all unanimously and immediately adjudged, and ordered (not with standing suffice Bacons and Reeves opinions upon the late presidents to the contrary) that the Rule for the Prohibition in the Kings Bench should be vacated; and that the Delegates should preceed to Sentence in the cause; which they did: And so my Client got both Judgement and Execution soon after against these

Sureties.

I might here very fitly inform our Levellers and their Confederates, That the Lords in Parliament (as they did antiently, so since the Commons admission unto this Great Count See an Ex. csl, have) made not only some* Acts for the Government of Lonact abridge— don without the Commons, as in 17 R. 2. n. 25,26,27. † Granment, P. 354 ted Ayds for themselves to the King, and likewise for the 1 lbid. P. 17. Merchants by the Merchants consents; consirmed Charters, 34.57. 156. Merchants in Parliament; reversed attainders, restored persons 136.431,412. Patents in Parliament; reversed attainders, restored persons 189.5194.584. attainted and their heirs to Lands and bloud; elected the Kings 889.615.652. Great Officers, Privi Counsellors; and prescribed them Laws, Rules, Orders: appointed a Protector during the Kings Mi-

Rules, Orders: appointed a Protector during the Kings Minority, limited his power, and discharged him from his place without the Commons: consirmed an imposition upon Cloth by the King, against the Commons petition to take it off; Ordered a Subsidy to be paid absolutely, which the Commons-granted but conditionally; called receivers of Subsidies and Monies to

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* 15 May

account, without the Commons, and opposed the Commons encroachments upon their privileges; as you may fee in the Parliament Rolls of 13 &. 3. n. 5, 6. Parl. 1. & Parl. 2. n. 8. 15 E. 3. n. 41. 21 E. 3. n. 16. Par. 2 R. 2. n. 22. 10 27. 57. 5 R. 2. n. 16. 5 H. 4. n. 51. to 58. 4 H.6.n.22. 6 H. 6. n. 22, 23. 8 H. 6. n. 13. 27, 28. 14 H. 6. n. 10. 31 H. 6. n. 34. In Clauf. 50 E. 3. m. 3. & 4. De effendo in Parliamento; there are write directed to particular persons in this form. Sis coram Robis, et cateris 1920. ceribus et Magnatibus regni nostri Anglia in prasenti Parliamento (without mentioning the Commons) apud Westm. convocato, has instante die Sabbate, proxime post futur: ad informandum Posiplos, Proceres et Pagnates (not the Commons) super quibus dams de quibus per se volumus infor-Per Concilium in Parliamento. mari, &c. 4. funii. And for the Nobles of Ireland, I and this Record. Claus. 2 E. 3. m. 17. * Rex dilecto et fideli fuo Johanni Darcy de + Sir John Nevien, Justiciario (no Hyberniæ falutem. Ex parte quo- Davis Reports rundam hominum de Hybernia Nobis exstitit supplicatum, mf. 37. 38. per statutum inde faciendum concedere volumus, Quod omnes Hybernici qui voluerint, legibus utantur Anglicanis, ita quod necesse non habeant super hoc Cartas aliquas a Nobis imperrare. Nos igitur certior ari volentes fi fine a. liquo prajudicio, pramissis annuere valeamus, vobis mandamus, quod beluntatem Magnatum terra illius, (not of the Commons) in prorimo Parliamento nottro ibioem temendo super hoc cum diligentia prasentarifateas, & de eo quod inde inveneritis, una cum vestro consilio & advisamento Nos distincte & aperte cum celeritate, qua potestis, certificetis, boc Breve noftra Nobis remittentes, &c. upon which Petition the use of the English Laws was afterwards granted. as appears by Clause 5 E. 3. part 1. m. 25. But I shall close up this Plea and Supplement with a few Presidents more, percinent to demonstrate the Lords undoubted Right of Judicature, Council and Advice in publike affairs, both in and out of Parliament.

In the Parliaments of 5 E. 2. n. 31. 4 E. 3. c. 14. 36 E. 3. c. 10. 50 E. 3. n. 181. 1 R. 2. n. 35. 2 R. 2. n. 5.

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It was enacted, "that a Parliament should be holden " once every year, or more often if need be, to redrefs divers mitchiefs and grievances which daily happen: e especially delayes in Judgements and sures at Law, "through difficulty, or diversity of Opinions among the " Judges." To prevent which, the Statute of 14 E.3.c.5. enacts; " that from henceforth at every Parliament " shall be chosen a Prelate, two Earls, and two Barons, which shall have Commission and power of the King, to "hear by Petition delivered to them, the complaints of " them that will complain of fuch delayes and grievances, "and to cause the records of such Judgements to be "brought before them, and to hear the cause and reasons of fuch delayes, and by the affiltance and advice of the "Chancellor, Treasurer, Justices of both Benches, and as " many other of the Kings Council as shall seem conveni-"ent, shall proceed to take a good award and make a good . judgement therein: And that the Judges shall proceed "haltily to give Judgement according to their determi-" nation. And in case it seemeth to them the difficulty " be so great, that it may not well be determined without of the affent of the Parliament, that the faid Prelate, "Earls and Barons, shall present the tenor or tenors of of the said record or cause to the pext Parliament, and "there shall be a final accord taken, what judgement " ought to be given in his cafe. And according to this award shall be commanded to the Judges, before whom the plea did depend, that they shall proceed to give " Judgement without delay. And to begin to give re-"medy upon this Ordinance, it was affented, that a . Commission and power be made to the Archbishop of Canterbury, the Earls of Arundel, and Huntington, the "Lord of Wake; and the Lord Raufe Baffet, to endure till "the next Parliament." After which I find this Com-" mission made in pursuance of this Ordinance. * Edwardus Dei grasia, &c. authorizing the Bishop of

* Par. 18 E.3. Chichester, the Eatls of Huntingdon and Devonshire, and

Pars 2. m. 39. Tho. Wake of Lidell, and Thomas de Berkley Barons,

See here, p. 370, 420.

assigned to hear querelas omnium qui se de gravaminibus & dilationibus sibi factis coram Iustic.et aliis conqueri voluerint, per avisamentum Cancell. Thes. Instic. de utroque Banco, & aliis de Consilio Regis, according to the Ordinance made in Parlia ment 14 Ed. 3. c. 5. that Unus Prelatus, Duo Comites, et Duo Barones should have Commission and power to hear and determine such complaints, Test. Rege apud Westm. nono die Iunii.

There is this Petition of the Commons to the King, for declaring Treasons, in 25 E. 3. Rot. Parl. n. 17. Item come les Instites nostre Seignior le Roy, assignez en diverses Conneces ajuggeent les gentz que sont empeschez devant eux come Traiteurs, pur diverses Canses desconnes a la Comme estre Treason, que vlease a'nostre Betgnioz le Roy per son Counseil, et per les Brantz, et sages de la terre, declarer les pointz de Areason en cest present Parlas

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Quant als Petstion touchant Treafon, noftre Seignioz le - See Cooks Roy ad Fait Declarer les Articles de 10 celle en manere 3 Inflit, c. 1. que enfuit | as in the Statute of 25 E. 3. c. 2. By which & 2. Petition, Act, and the like Petition in 21 E. 3.n. 15. it is apparent, That the Right of declaring, Judging what is High Treason in Parliament, belongs originally to the King himself, by the advise of his Councel, Great men, and Sages of the Land, and not unto the Commons House, at whose request the KING then made a Declaration of the Articles of Treason, as in this Statute, by his Nobies, Councils and Indges advice: Therefore the Declaration of all other Treafors in particular cafes not within this Statute, belongs wholly rothe King, Lords, Council and Judges in the Lords Houle, not to the Commons alone, or joyntly with them, within the later branch of this Act (as well as the Treasons within the body therof:)wiz . Because that many other like cases of Treason may happen in time to come which a man cannot imagin nor declare at this prefent time : it is accorded, that if any other case, supposed Treason, which is not before specified shall happen de novel before any Lustice, the Instice shall demur without going to Indgement of the

LEMENT, soit le case monstre et declare, de que le ceo

* See Raftals Abridgement of Statutes,

doit eftre ajugge Treason, ou autre Felony. Against the Opinion of Sir Edward Cooks 3 Inflicutes, p. 22. The Commons having no power at all to declare and judge what hall be Treason in such new particular cases, but only Title, Treason when at New Treason is made or declared for the future by Bill, or Att of Parliament, wherein their concurrence is necessary (as in all new Acts concerning Treasons since 25 E.3.) as is evident by Mr. Sr. Iohns Argument at Law this very last Parliament, at the Attainder of Thomas Earl of Strafford, and Mr. Samuel Browns Argument at the Lords House Bar, to prove and fatisfierthe Lords House, that he, and Archbishop Land were guilty of High Treason upon the Articles of their several Impeachments exhibited and proved against them, of which the Lords and King alone were the proper Iudges , but the Commons, only their Impeachers and Profecutors in the Indicial way of Parliamentary Proceedings, as I have formerly evidenced. Therefore all the late Votes, knacks, Declarations of the Commons House alone before; or without the Kings & House of Lords Declarations, Resolutions, of sundry things to be high Treason, and divers persons to be Traytors, upon bare informations, fuggestions, (though not within the Letter of 25 E. 3.c.2.) are but meer illegal innovations, extravagancies, yea Nullities in Law, fit to be eternally exploded, especially by Lawyers, the chiefest Innovators, Promoters of them, rather out of ignorance or rashnesse, than Prudence, Lam, or solid Indgement, for which they can produce no presidents in former ages.

In the year 1392. the 15 of King Rich. the 2. we have this memorable President of the Lords Indicature together with the King, affembled in a Great Councel, without the Commons, in the case of the Mayor, Sherifs, Ci-P. 382, 383, tizens and City of London thus related by " Walfingham at large.

* Hiff. Angl. 384

Missit Rex ad Cives Londoniarum petens ab eis mutuo mille libras : cui procaciter et ultra quam decuit restite-

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runt. Sed & quendam Lumbardum volentem accommodare regi dictam summam, male tractaverunt, verberaverunt, et paulominus occiderunt. Qua cum Rex audiffer, iratus elt valde, et convocans omnes regni pene Majo res, apperuit proterviam civium Londoniarum, et de præsumptione conqueritur eorundem. Qui omnes infethi Civibus propter diversas causas, consulunt, ut reprimatur citius corum insolentia, et superbia destruatur. Eranc quippe tunc inter omnes fere nationes gentium clariffimi, arrogantissimi, et avarissimi, ac male creduli in deum & traditiones avitas, Lolardorum sustentatores, religioforum detractores : decimarum detentores , et communis vulgi depauperatores. In tantumque excrevit eorum supercilium, ut anderent leges condere, quibus adventantes de circumjacentibus villis, vel Provinciis, contra rationem omnem humanam, Deum, et justiciam, molestarent, gravarent et fatigarent. Prætereo eorum inhumanitatem, fileo rapacitatem, reticio infidelitatem, transeo malignitatem, quam indisciplinate in adventantes populos exercuerunt. Qui fi vellem cuncta describere quæ perpetraverunt hoc tempore, volumen credo maximum conficeret. Objecta sunt eis igitur qua contra regem fecerant, et sua majestatis notoriam lasionem; objecta funt quæ in provinciales commiserant, ad regis ac dominorum regnique populi detrimentum : quæ fi vellent inficiari præsto erant accusatores e patria, qui sacramento suo corum probare cuperent acta prava. Londonienses ergo in medio miseriarum subito constitui, et velut verfati inter cudem et malleum, cum non esset locus excufationis, decreverunt se potius submittere regis gratia, quam succumbere veridicto vel judicio duodena. Regis ergo Indicio arrestatus est Maior Londoniarum, et vicecomites, eum quibusdam de Majoribus, cateris domum redire permissis. Major autem missus est ad Castellum de Windeshores, cateriad diversa castella destinati funt, fubareta custodia conservandi, donec Rex cum Confilio deliberaffet quid faceret de eisdem. Ibidem decretum eft, ne de catero Londonienses Maiorem eligerent vel haberent ;

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berent, led rex de suis militibus provideret aliquem, qui rector foret, et cultos civitatis vocaretur, et effet (quem alio nomine vocamus vulgariter Gardianum) ibi sublequenter, et corum funt privilegia revocata, libertates annullatæ, et leges quas vel condiderant, vel a diebus habuerant abrogata. Tunc primo Rex conflicuit custodem civitatis, abrogato Maioris vocabulo, quendam militem dictum Edwardum de Dalyngrygge, qui et cives regeret, & justitiæ cunctorum æque prospiceret : sed is cito fuit per regem depolitus, quia convietns elt civibus fecille juramentum, vel de eorum consuetudinibus defendendis, vel certe pro poste suo, subriliter revocandis. Fuerunt qui dicerent eum ex indufiria hoc fecisse, plusque regis commodo quam civium in hac parte prospexine. Quod cum regi fuiflet cognitum, pænituit eum militem benevolum fic tractasse. Nihilominus rex et alium militem loco suo constituit nomine Baldeny num de Radyngton, virum certe providum et discretum, qui sciret delinire mororem civium, et corum mentes ertgere ad spem bonam. Nam cives præ tristitia contaburunt & dolore.

Interea multis mediantibus (sed pracipue duce Glovernia safistente) rex factus animi aquioris paulatim difcedic a sui rigore propositi, reducens ante mentis oculos honores varios, quos per Londinenses acceperat, et magnifica dona per eos præltita: unde decernit mitius cum eis agere, et eos ad spem aliqualis gratia revocare. Mittit nempe mandans Londinensibus, ut ad castellum de Wyndesore conveniant, demonstraturi privilegia, libertates ac jura civitatis nova et vetera coram eo, confilio quoque suo, ut ibi decerneret qua servanda forent in civitate, vel que penitus obolenda. Quibus oftenfic, quædam ratificata, quædam permina, quædam damnata tuere, Maioris tamen nec personam, nec dignitatem ea vice recuperavere, neque plenam regis gratiam, donec satisfecissent regi de damnis et injuriis quæ vel sibi, vel regis plebi antea intulissent. Equidem ea vice convenit inter regem, et Dominos, ne corum latisfactionem accepta-

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retinec cum eis quovismodo componeres sine consilio Dominorii. Nempe rex cum primo contra eos incanduisset (propter causas quas supra notavimus) meditatus est exercitum congregalle, & incivitatem irruille cum impetu, et cives de sub coclo delevisse. Quod tamen Ducis Lanca-It is oratione mutatum est; qui censuit eos (ut præmittitur) evocandos, et (ut præfertur) cassigandos, vel (si obitinati fuifient) tunc juxta regis propolitum oblidendos, et de terra viventinm disperdendos. Rex autem in hac collectione apud Wyndesore, Dominos temporales regni cunctes, et Episcopos pene omnes, necnon exercicum talem contraxerat, qui merito terrori Londin.posfet esse.In quos omnes incredibiles tecit expensas, pro quibus certum erat Londonientes foluturos. Ipfi vero non ignorantes quod horum finis effet expositio argenti et auri, submilerunt se et sua regi, voluntarie ei decem millia librarum vadiantes, dimissi tamen sunt domum rediere, incerti quid solverent, donec regis concilium et formam satisfaciendi, & summam solvendi definisser. Cumque et cives regreiss fuissent & Proceres qui cum rege fuerant, ac reliquus populus ad propria remeassent; Rex audiens Londinenses in triffitia constitutos, et mente laplos, ait suis: Vadam Inquit Londonias, et confolabor cives, nec patiar eos ultra de mea gratia desperare. Que sententia mox uc cognica fuit in civitate, incredibili jocunditate replevit omnes, unde omnes et singuli et generaliter statuerunt occurrere, et non minores expensas facere in xeniis, & donativis quam fecerant in ejus coronatione. Kex igitur ut venit Londonias, tanta gloria, tanta pompa, tanta varietate divertorum apparatuum elt fulceptus, quanta fuscipi regem aliquem triumphantem decuitler. Namequos et phaleras, tabulas aureas et argenteas, pannos aureos et holosericos, pelves et lavatoria de fulvo metallo, aurum in pecunia, gemmas et monilia, tam dieia, tam nobilia, tam speciosa donaverunt eidem, ut cunctorum valor et pretium non posset facile estimari. Sicque recuperaverunt cives consuetudines et libertates antiquas que faltem civitati possent esse fulcimento, nec extraneis detrimento. Indultumq; tuit eildem, ut Majorem possent eligere sicut prius. Credebant autem Londonienses quod per hac dona domigerium evasissent, et in posterum quieti suitient: sed sessellit eos eorum opinio, qui coa ci sunt expost solvere regi decem millia librarum, de communitate collecta, in amaritudine mentis magna: Proceres vero regni qui regis consissio interfuerant, audientes quod Rex contra pastum indussisse Londoniensibus, offensi sunt valde inter se, regis levitatem et inconstantiam condemnantes. Nemo tamen palam regem tedarquit de pramissis.

In the Parliament of 11 H. 4. tot. parl. num. 14. The Commons exhibited this Petition to the King; by which it appears, that as in the Parliaments of 1,2. & 4 E. 3.n. 1. 10 R. 2. 17 R. 2. n. 6. 7 & 8 H. 4. n. 66, 67. some of the valiantest, wifest, discreetest Spiritual and Temporal LORDS, were by Petition of the Commons, and special Order of the Lords in Parl. pliced about these Kings, to BETHEIR PRIVY COUNSELLORS, to advise, counsel them, and manage all the Great affairs of the Realm under them; so in this Parliament they exhibited this Petition to the

like effect.

Primerement, que plese a nostre dit Seigniour le Roy ordeigner et affigner en cest present Parlement, les pluis vaillantz sages et discretes Seigniours espirituelx et temporelx de son roialme, pur estre de son counseil, en eid et supportation del bone et substancial gouvernance, et la bien de Roy et de Roialme ; et que les ditz Seigniours de counfeill et les Justices de Roi soient overtement (jurez) en y cest present parlement, de eux bien et loialment en lour counseill et faitz acquiter pur le bien de Roy et de Royalm, en toutz pointz, saunz favour pur affection, ou affinite faire a ascune manere de persone. Et que plese nostre dit Seigniour le Roy en presence de toutz les Estates de parlement, co. mander les ditz Seigniours et Justices sur lour foy et ligeance, que lui devont, gils feront pleyne justice et droit onelment a chescuny sanz tarians, i bonement come ils purront, Sanz ascun commandement on charge de queconque per sone a contrarie.

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Le Roy le voer, was the answer which was given them. Refp. See the like Petitions afterwards in I H. 6. n. 26. 2 H. An Exact abridgement p. 6. n. 15, 16. 8H.6. n. 27, 28. 11 H.6. n. 41.

I shall conclude with these 2. memorable late presi-329.456,457.

dents: † In the Parliament of 8 Eliz. upon the death of 594, 611. Thomas Williams Esquire, Speaker of the Commons house, Richard Onsloe Esquire, the Queens Sollicitor, first chosen at A Catalogue Member of the Commons bouse, and after called by Writ toers Names, by attend the Lord: House as an Assistant; at the request of W. Hackwill the Commons to the Queen and Lords, was fent down a of Lincolns gain to the Commons house, without any new election, Inne, Efq; gain to the Commons house, without any new election, 1641. p. 141, and there chosen and presented by them for their Speaker; 142, 143. and allowed of by the Queen and Lords. So in the Parliament of 23 Eliz. upon the Queens making John Bell Elg; then Speaker, chief Baron of the Exchequer, John Popham Esq; then Queens Sollicitor, called from the Commons house to the Lords as an Affiltant by writ; at the Commons request to the Queen and Lords, was remitted to them again, upon his old, without any new election, and then chosen, presented, accepted for their Speaker. Which 2. late prefidents infallibly prove, I. That the King hath an absolute power over any Members of the Commons house upon a just occasion, to call them thence by writ to be Assistants to the Lords house; or else to create them Peers and call them to be Members of the Lords house, as he did Sir Francis Seymore, Mr. Arthur Capell, and others, created Lords the last long Parliament: 2ly, That the calling of any to the Lords house from the Commons by writ, as Assistants only, doth not totally disable them to be Members of the Commons house again, the self-same or the next Parliament, but that upon the Commons Pets. tion, and affent of the King and Lords, they may be remanded to the Commons house, and be Members and Speakers thereof again; but not by the Commons votes or order, but only by the Kings, with the Lords affent, who may refuse to remand them if they please. A very pregnant argument, that the power of removing, judging, suspending, approving, readmitting Members of the Commons house

of the Speak-

* Gratian,

upon Elections or Mildemeanors, belongs not of right to the Commons house, but to the King and House of Peers, as I have formerly evidenced. Admitting then that the Commons have de facto gained, exercised this privilege of late years to judge, suspend or eject their own Members in fuch cases without the King and House of Peers, yet ha. ving most grossy abused it of late, to the ruine, subversion Caufii. qu.z. of Parliaments, I must conclude with the ' Canonists

Privilegium meretur amittere qui abutitur potestate. Jer. 6. 16. Thus faith the Lord, Stand ge in the wayes and Jee, and ask for the old pathes, where is the good way, and walk therein, and ye iball find rest for your fouls; But they (aid, We will not walk therein.

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Prov. 24.21, 22. My fon, fear thou the Lord and the King, and medale not with those who are given to change: For their Calamity (hall rife suddenly; and who knoweth the ruine

of them both ?

Jer. 21. 3, 4. c. 17. 25, 27. Thus faith the Lord, Execute ye judgement, and deliver the specied out of the hands of the Oppressor, and do no wrong: do no volence to the stranger, the fatherless nor the widdow; neither shed innocent bloud in this place. For if ye do this thing indeed, then (hall there enter into the Gates of this House, KINGS & PRINCES hiting upon the Throne of David, riding in chariots and on horses, they and their PRINCES, the men of Iudah, and the inhabit ants of Ierusalem, and this City shall remain for ever. But if you will not bearken unto me, Oc. then will I kindle a fire in the gates thereof, and it shall devour the PALACES of Ierusalem; and it (hall not be quenched.

FIN IS.

Kings

An Omission in pag. 30: 1. 7.

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R Anulph de Glanvil Chief Justice under King Henry the 2. In his Tractains de Legibus et Consuetudinibus . See lib. 8: Regni Anglia, † written in the 33 year of his reign hath c. 2, 3. this memorable passage relating to the Parliamentary Councils in that agest. 2.c.7. Est autem magna Assisa, RE-GALE QUODDAM BENEFICIUM, CLEMEN-TIA PRINCIPIS DE CONSILIO PROCERUM POPULIS INDULTUM (to wit in a Parliamentary Council of the King and Lords without any Commons) " quo vica hominum et flatus integritari, tam falubriter "consulitur, ut in jure quod quis de libero soli tene-"mento polidet retinendo, duelli casum declinare posiunt " homines ambiguum, &c. Ex xquitate autem maxima seprodica est LEGALIS ISTA INSTITUTIO. Jus enim quod post multas & longas dilationes, vix evincitur per "duellum, per beneficium ISTIUS CONSTITUTIO-"NIS, commodius et acceleratius expeditur. By which it is evident that the Grand Affize was no original Processe or Trial at the Common Law , but alegal institution , and bezeficial constitution proceeding from the Grace of the Prince, and indulged to the People BY THE COUNSEL OF THE LORDS assembled together in a Parliamentary Council (which Lib. 2. c. 9. Glanvil Hiles, Recordum per Affifam DE CONSILIO REGNI inde factum) for the speedier and better recovery of their freeholds, without endangering their lives by a Duel to recover them, which was fuller of delays, bix leis certain, and more unjust than a recovery by verdict in this new action. And this Court he stiles, CAPITALEM CURIAM DOMINI REGIS, 1. 6. c. 8. l. 3. c. II. l. 12. c. I. to which causes usually were adjourned, out of the Hundred Courts and Court Ba. + See here, p. rons for difficulty, and there decided as well as in the 406.

Kings Bench. Quando aliquis BARO habet aliquam loquelam in Curia sua, ita quod Curia spsa non sufficiat eam determinare, tunc potest Dominus ipse Curiam suam ponere, in Cur. Dom. Reg. ita quod de dubitatione ipsa Consilium et Assensum habeat Curia Dom. Reg. quio inde de jure siert debeat, Et hoc debet Dom. Rep. quio inde de jure siert debeat, Et hoc debet Dom. Rep. dut sua Barones Curias suas sic in Curiam suam ponere: ita quod faciat eis habere in Curia sua de peritis hominibus suis, qui eis super hoc consilium prestent. Cum autem in Curia Domini Regis super dubitationibus suis suerint certificati, poterunt inde cum loquela sua redire, et ipsam in Curia sua deducere et terminare: as he resolves 1.8. c. 11.

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Page 34 1. 10. The same Andrew Horn in his Mirrour ch. 5. s. s. s. s. s. hath these 2 memorable Passages concerning Abuses in the King and Parliament, in his age, very surable to those in our days.

Abusion est disule, ou missie de droit; usages tornes en Abusions alcun soit per Contrarierie & repugnancy a

droit, ascun foits per trope largement user,

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La primier et le foversign abusion, ett que le Roy est outtre la ley, ou il buill ceste subject; sicome ett contenus in ion crement.

a. Abusion, est que ou les Parlaments se duissent saire pur le salvation des Almes de de trespissors, & ceo a Londres, et deux soits per An, la ne se sont ils ore sort que rarement, et a la volunt le Roy, pur aives et cuilets de tresore; Et ou les Didinances duissent faire al Common assent del Roy et de ses Counties, la le se sont ore per le Roy, et ses Clerkes, et per aliens et autres que nosent contravener le Roy; eins dessent de luy plaire, et de luy Counseller a son prosit, tont ne soit my le Counsel Covenable al Commons del people, sans appeller les Counties, et sans entuer les Rules de droit, et dour vlusques Didinances le somment ore pluis sur volunt : sur droit. As most new Ordinances now are source de

Aiter which follows this Interpretation of Magia Charta, ch. 29 Ibid. p. 314, 315. Le point que le Roy grant, que il ne diffeisa nul home ne imprisonera, ne dedestroiera forsque per loyal Judgment destroie; l'estatut de merchants, et autres estatutes est enterpretable en cest maniere; nul ne soit prise, cest adire, si non per garrant soundue sur personal Action, distinguishes; Car si le Action soit venial nul imprisonment nest avowable si non par desault de mainpernors; et issint apiert que nul est imprisonable pur det. Et si ascun estatut soit sait repugnant a ceste point, ou pur le dette le Roy, ou pur le det de autre, ne sait point tenir: nul ne soit utlage sait a entendre si non pur mottele selony, dount lun est mie save per serement de Vicines a ceo lures, ains come de office al foer que lun use en Eires; Et pur ceo se destruit il la statut de Utlaguer home pur arrerages d'accounts, et de toutes autres tiel statutes. Et ceo que est dit nul ne soit exule ne destruit est enterpretable en cest entendment, Que lun eit action d'appeler touts et routs Suitors, toutes asselsors, toutes fornissors que destruent home contre le droit Cours, et les droites rules de la Ley.

De autre parte, ceo que le Roy desende, que nul ne soit disseise de frank tenement, de ces Franchises, ou de ces franc Customes; est issint de entendre; Que lun recovera per l'assis de novel disseis nou maniere de frank-renement; et rout maniere de possession real de siew, ou de Franchises dount lun est eviet, si un per loyal judgment; et cest mots (si non per loyal judgment) referre a touts

les parols de cest estatute.

e Cett point que le Roygrant a son people, que il ne vendra droit, ne noiera, ne declaiera, est disune per le Chancellor que vende les bres remediale et les appele bres de grace. Et le Unancellour de leschequer, que vee acquittances sans verte cere des paiments sait al Roy. Et touts ceux que delaient doir digment ou autre droit.

And page 289. Abusion est a me tre wites parols en bres (Nis capius sis per speciale preceptum nostrum, vel capitalis Iusticiarii nostri, vel pro foresta nostra, Ge.) car nul especiall mandement doit passer Common droit.

EKRATA

